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11/5/2019**

<p>1 UNITED STATES DISTRICT COURT 2 FOR THE SOUTHERN DISTRICT OF NEW YORK 3 4 UNITED STATES SECURITIES) AND EXCHANGE COMMISSION,) 5) 6 Plaintiff,) Case No. 1:19-cv-05244 7 v.) 8 KIK INTERACTIVE INC.,) Defendant.) 9 _____) 10 11 12 13 CONFIDENTIAL 14 VIDEOTAPED DEPOSITION OF 15 ERAN BEN-ARI 16 Tuesday, November 5, 2019 17 Washington, D.C. 18 19 20 21 22 23 24 Reported by: Lori J. Goodin, RPR, CLR, CRR, RSA California CSR #13959 25 JOB No. 191105LJG</p> <p style="text-align: center;">1</p>	<p>1 APPEARANCES 2 3 For Plaintiff: 4 SECURITIES AND EXCHANGE COMMISSION BY: DAVID S. MENDEL 5 mendeld@sec.gov STEPHAN J. SCHLEGELMILCH 6 schlegelmilchs@sec.gov LAURA K. D'ALLAIRD 7 dallaird@sec.gov Attorneys at Law 8 100 F. Street, N.E. Washington, D.C. 20549 9 10 For Defendant: 11 COOLEY, LLP BY: BRETT DEJARNETTE 12 bdejarnette@cooley.com JENNA BAILEY 13 jbailey@cooley.com LUKE T. CADIGAN 14 lcadigan@cooley.com Attorneys at Law 15 3175 Hanover Street Palo Alto, California 94304 16 650-843-5000 17 18 Videographer: 19 DAN HOLMSTOCK GRADILLAS COURT REPORTERS 400 N. Brand Boulevard 20 Glendale, California 91203 424-239-2800 21 22 23 24 25</p> <p style="text-align: center;">3</p>
<p>1 UNITED STATES DISTRICT COURT 2 FOR THE SOUTHERN DISTRICT OF NEW YORK 3 4 UNITED STATES SECURITIES) AND EXCHANGE COMMISSION,) 5) 6 Plaintiff,) Case No. 1:19-cv-05244 7 v.) 8 KIK INTERACTIVE INC.,) Defendant.) 9 _____) 10 11 12 13 14 Deposition of ERAN BEN-ARI, taken 15 on behalf of Plaintiff, at 100 F Street, 16 Northeast, Washington, D.C. 20002, 17 beginning at 9:08 a.m. and ending 18 at 2:58 p.m., on Tuesday, November 5, 19 2019, before LORI GOODIN, Certified 20 Shorthand Reporter No. 13959 21 22 23 24 25</p> <p style="text-align: center;">2</p>	<p>1 INDEX 2 WITNESS: EXAMINATION 3 ERAN BEN-ARI 4 BY MR. MENDEL 8 5 6 EXHIBITS 7 EXHIBIT NO. PAGE DESCRIPTION 8 Exhibit 1 11 Subpoena to testify 9 Exhibit 2 12 Transcript of Mr. Ben-Ari's 10 previous testimony, 10/2018 11 Exhibit 3 35 Minutes of Meeting of Kik 12 Board of Directors, 2/16/2017 13 (Kik_00078776-778) 14 Exhibit 4 48 E-mail, Livingston to Board 15 2/16/2017 16 (Kik_00026450-494) 17 Exhibit 5 56 Review of CoinFund 18 deliverable, 3/22/2017 19 (Kik_00044719-725) 20 Exhibit 6 58 Token Integration Research 21 Proposed Economics, 2017 22 (CoinFund007691-747) 23 Exhibit 7 80 Presentation, Board Call 24 5/23/2017 25 (Kik_00106868-898)</p> <p style="text-align: center;">4</p>

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<p>1 EXHIBITS CONTINUED</p> <p>2 EXHIBIT NO. PAGE DESCRIPTION</p> <p>3 Exhibit 8 108 Badger sticker</p> <p>4 (Kik001098)</p> <p>5 Exhibit 9 108 Badger sticker</p> <p>6 (Kik001092)</p> <p>7 Exhibit 10 109 E-mail chain, Ben-Ari to</p> <p>8 Livingston, et al, 5/18/2017</p> <p>9 (Kik00103093-097)</p> <p>10 Exhibit 11 120 Screenshot of metadata</p> <p>11 (Kik_00031620-621)</p> <p>12 Exhibit 12 135 Kin: A Decentralized</p> <p>13 Ecosystem of Digital Services</p> <p>14 (Kik000001)</p> <p>15 Exhibit 13 140 E-mail chain, 5/20/2017</p> <p>16 (Kik_00124018-021)</p> <p>17 Exhibit 14 144 E-mail, Ben-Ari, 6/5/2017</p> <p>18 (Kik_00103250)</p> <p>19 Exhibit 15 153 E-mail, Ben-Ari, 6/10/2017</p> <p>20 (Kik_00103267)</p> <p>21 Exhibit 16 162 Confidential Private</p> <p>22 Placement Offering memo</p> <p>23 Exhibit 17 187 Tel Aviv Summit Notes</p> <p>24 (Kik_00129301-326)</p> <p>25</p> <p>5</p>	<p>1 PROCEEDINGS</p> <p>2 * * *</p> <p>3</p> <p>4 THE VIDEOGRAPHER: We are now on</p> <p>5 the record. This is Video Number 1 in the</p> <p>6 video recorded deposition, of Mr. Eran</p> <p>7 Ben-Ari, taken in the matter of United States</p> <p>8 Securities and Exchange Commission,</p> <p>9 Plaintiff, v. Kik Interactive Inc.,</p> <p>10 Defendant.</p> <p>11 The case is pending before the</p> <p>12 United States District Court for the District</p> <p>13 of New York. Case Number 19-CV-5244.</p> <p>14 This deposition is being held at the</p> <p>15 law -- the offices of the United States</p> <p>16 Security and Exchange Commission, 100 F</p> <p>17 Street, Northeast in Washington, D.C.</p> <p>18 Today's date is November 5th, 2019,</p> <p>19 and the time on the video screen is 9:08 a.m.</p> <p>20 My name is Daniel Holmstock and with</p> <p>21 me is Lori Goodin. We are in association</p> <p>22 with Gradillas Court Reporters, Inc.</p> <p>23 For the record, will counsel please</p> <p>24 introduce themselves and whom they represent.</p> <p>25 MR. MENDEL: I am David Mendel. I</p> <p>7</p>
<p>1 EXHIBITS CONTINUED</p> <p>2 EXHIBIT NO. PAGE DESCRIPTION</p> <p>3 Exhibit 18 206 Minutes of Settlement</p> <p>4 Ben-Ari and Kik</p> <p>5 (Kik_00147228-235)</p> <p>6</p> <p>7</p> <p>8 (Original Exhibits attached to the</p> <p>9 original transcript.)</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>6</p>	<p>1 am with the U.S. Securities and Exchange</p> <p>2 Commission.</p> <p>3 MS. D'ALLAIRD: Laura D'Allaird.</p> <p>4 I'm with the U.S. Securities and Exchange</p> <p>5 Commission.</p> <p>6 MR. SCHLEGELMILCH: Stephan</p> <p>7 Schlegelmilch for the Commission.</p> <p>8 MR. DEJARNETTE: Brett DeJarnette</p> <p>9 from Cooley on behalf of Kik and the witness.</p> <p>10 MR. CADIGAN: Luke Cadigan of</p> <p>11 Cooley. The same.</p> <p>12 MS. BAILEY: Jenna Bailey from</p> <p>13 Cooley for the same.</p> <p>14 * * *</p> <p>15 ERAN BEN-ARI,</p> <p>16 having been first duly sworn, was examined and</p> <p>17 testified as follows:</p> <p>18 * * *</p> <p>19 EXAMINATION</p> <p>20 BY MR. MENDEL:</p> <p>21 Q. Good morning.</p> <p>22 A. Good morning.</p> <p>23 Q. As I just said, my name is David</p> <p>24 Mendel. I am with the U.S. Securities and</p> <p>25 Exchange Commission.</p> <p>8</p>

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<p>1 Can you please state your full name 2 and spell it? 3 A. Eran Ben-Ari, E-R-A-N, B-E-N - A-R-I. 4 Q. Can you state your home address? 5 A. [REDACTED] 6 Q. And -- 7 MR. DEJARNETTE: Hey David, before 8 we get going can we stipulate at the outset 9 that all objections other than as to form 10 will be preserved? 11 MR. MENDEL: Yes. 12 BY MR. MENDEL: 13 Q. Just to go over some of the 14 procedures for today, Mr. Ben-Ari, as you know we 15 have a court reporter and we have a video 16 recording of this deposition as well. 17 This is a lawsuit that the SEC has 18 brought against Kik Interactive, Inc., the 19 deposition is being conducted under the Federal 20 Rules of Civil Procedure. 21 The court reporter will be 22 transcribing everything that we say. 23 And just in the interest of creating 24 a clear transcript, or as clear as possible, I 25 would ask you to be mindful of letting me finish</p> <p style="text-align: center;">9</p>	<p>1 why you don't think you can give full and 2 accurate testimony today? 3 A. No. 4 Q. I would like to provide you with 5 what has been marked as Exhibit 1 for this case. 6 And if, the court reporter can hand me the other 7 copies if you have them. No big deal. Here they 8 are. 9 (Exhibit Number 1 10 marked for identification.) 11 BY MR. MENDEL: 12 Q. Mr. Ben-Ari, I'm providing you what 13 has been marked as Exhibit 1. Have you seen this 14 before? 15 A. Yes. 16 Q. What is it? 17 A. It is a subpoena to testify. 18 Q. And you are appearing here today 19 pursuant to the subpoena, correct? 20 A. Yes. 21 Q. Okay, great, I will take that back 22 from you. 23 A. Thank you. 24 Q. And do you recall giving sworn 25 testimony to the SEC during its investigation</p> <p style="text-align: center;">11</p>
<p>1 my question first before you start to provide 2 your answer rather than talking over each other. 3 I would also ask you to try to 4 provide a verbal answer as opposed to a body 5 gesture or a nod of the head, I think that will 6 work better for the transcript. 7 If you don't understand a question, 8 by all means please let me know. I will try to 9 rephrase the question so that it is more 10 understandable. 11 We will be taking periodic breaks. 12 That said, if you feel at any point along the way 13 that you need a break, feel free to ask for one. 14 Let me or let your attorney know. 15 The only caveat to that is if there 16 is a question pending, if I asked a question, 17 please, I would like for you to try to answer the 18 question first before adjourning. 19 You understand that you are under 20 oath today, right? 21 A. Yes. 22 Q. And, are you taking any medication 23 today that could affect your memory? 24 A. No. 25 Q. Can you think of any reason at all</p> <p style="text-align: center;">10</p>	<p>1 that led to this case? 2 A. A year ago, yes. 3 Q. That was on October 23rd, 2018? 4 A. Correct, yes. 5 Q. Have you read a transcript of the 6 testimony that you gave that day? 7 A. Yes. 8 Q. When did you read it? 9 A. Last week. 10 Q. And, when you read the transcript, 11 did you notice anything in it that you thought 12 was inaccurately transcribed? 13 A. There were a few typos. 14 But, other than that nothing 15 substantial. 16 Q. Nothing major or significant that 17 you thought that was improperly transcribed? 18 A. Correct. 19 Q. Okay. And the court reporter please 20 hand what has been marked as Exhibit Number 2. 21 (Exhibit Number 2 22 marked for identification.) 23 BY MR. MENDEL: 24 Q. Mr. Ben-Ari? 25 MR. DEJARNETTE: Objection as to the</p> <p style="text-align: center;">12</p>

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1 introduction of this document. You may go
2 ahead.
3 BY MR. MENDEL:
4 Q. Do you recognize, Mr. Ben-Ari, what
5 I have provided you as Exhibit 2?
6 A. It appears to be the transcript of
7 my testimony a year ago.
8 Q. Okay. Great. You can set that
9 aside for the moment. Keep it near you. We'll
10 be referring to that.
11 A. Okay.
12 Q. What year were you born?
13 A. 1979.
14 Q. And where were you born?
15 A. Jerusalem, Israel.
16 Q. Where did you spend your childhood?
17 A. Israel, England, Japan, Singapore.
18 Q. You moved around a fair amount.
19 A. Yes.
20 Q. Did you do military service?
21 A. Yes.
22 Q. For which country?
23 A. Israel.
24 Q. What years?
25 A. 1997 through 2000.

13

1 Q. Was that more than the required
2 amount?
3 A. No.
4 Q. What positions did you hold during
5 your military service?
6 A. I was part of the Combat Engineering
7 Corps and I held a noncommissioned officer
8 intelligence.
9 Q. Did you go to college?
10 A. No.
11 Q. You didn't go to college after your
12 military service?
13 A. No, I went straight to university.
14 Q. Did you get any degrees from the
15 university?
16 A. Yes.
17 Q. What degrees did you get and when
18 did you get them?
19 A. I got a Bachelor of Arts in
20 Sociology, Anthropology, and Political Science.
21 I think it was 2003 or 2004. And I
22 got a Masters in Anthropology and Sociology,
23 2007. These are the degrees that I got from
24 university.
25 Q. How many years were you at

14

1 university before you got your degree, your
2 bachelor's?
3 A. How many years did I study?
4 Q. Yes.
5 A. Three years.
6 Q. Three years.
7 A. Yes.
8 Q. And do you have a Ph.D.?
9 A. I do not have a Ph.D.
10 Q. Did you study for your Ph.D.?
11 A. Yes.
12 Q. If I recall you were about to finish
13 your Ph.D. about a year ago. What happened to
14 that?
15 A. Life is stronger than my Ph.D.
16 Q. Are you still working on it?
17 A. No, time is up. So, I need to start
18 a new one if I want.
19 Q. Okay. Me, too.
20 A. Okay.
21 Q. What was the subject matter?
22 A. So, it was in the field of
23 anthropology of technology. And I studied one of
24 Google's products and how it spread around the
25 world.

15

1 Q. Which product?
2 A. Google Analytics.
3 Q. After you got your university, your
4 bachelor's degree, I believe you had a number of
5 jobs lasting about a year or two each until you
6 landed at a place called Kampyle, do I have that
7 right?
8 A. Yes.
9 Q. Could you spell that for the record?
10 A. K-A-M-P-Y-L-E.
11 Q. And what year the years that you
12 worked at Kampyle.
13 A. I do not remember the years. Can I
14 open my testimony? I think I put it there last
15 time.
16 Q. Absolutely. If you think that will
17 be helpful. Look at Page 12 of your testimony.
18 A. Okay, thank you. I don't see the
19 exact years here. I think it is 2012 or 2013.
20 Q. Okay. It is fair to say that it was
21 after you got your university, your master's
22 degree in 2007?
23 A. Yes.
24 Q. And before you came to work at
25 Rounds?

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<p>1 A. Yes.</p> <p>2 Q. And, what positions did you come to</p> <p>3 hold at Kampyle?</p> <p>4 A. First Director of Product and then</p> <p>5 Vice President of Product.</p> <p>6 Q. Okay. And you can close that</p> <p>7 transcript, thank you.</p> <p>8 In your role as Vice President of</p> <p>9 Product, did you evaluate information on customer</p> <p>10 usage?</p> <p>11 A. Yes.</p> <p>12 Q. And what would you do with that</p> <p>13 information?</p> <p>14 A. I would then use it to decide what</p> <p>15 else we need to develop and build.</p> <p>16 Q. Did you have a technical job at</p> <p>17 Kampyle?</p> <p>18 A. No.</p> <p>19 Q. How would you describe your role as</p> <p>20 like Vice President of Product with respect to</p> <p>21 technology, what was your, to what extent were</p> <p>22 you involved with that?</p> <p>23 A. Can you please clarify the question?</p> <p>24 Q. To what extent in your role as Vice</p> <p>25 President of Product did you address technology</p> <p style="text-align: center;">17</p>	<p>1 a very clear need in the market for the product.</p> <p>2 But they tried to expand or reach to</p> <p>3 additional users. So, that was my role. To</p> <p>4 organically grow the user base.</p> <p>5 Q. And did you evaluate information on</p> <p>6 customer usage in that job as well?</p> <p>7 A. Yes.</p> <p>8 Q. And then what did you do after Hola</p> <p>9 Networks?</p> <p>10 A. After Hola I joined Rounds</p> <p>11 Entertainment.</p> <p>12 Q. And what year was that?</p> <p>13 A. I think it was 2015.</p> <p>14 Q. What positions did you hold at</p> <p>15 Rounds?</p> <p>16 A. Vice President of Product.</p> <p>17 Products.</p> <p>18 Q. And you worked with customer</p> <p>19 information at Hola as well, right? I mean, I'm</p> <p>20 sorry, at Rounds?</p> <p>21 A. Yes.</p> <p>22 Q. What specifically were the jobs or</p> <p>23 areas -- let me start that over again.</p> <p>24 What products did you work on at</p> <p>25 Rounds?</p> <p style="text-align: center;">19</p>
<p>1 needs?</p> <p>2 MR. DEJARNETTE: Objection.</p> <p>3 BY MR. MENDEL:</p> <p>4 Q. That is okay. I will move on.</p> <p>5 A. Okay.</p> <p>6 Q. What happened with your position at</p> <p>7 Kampyle?</p> <p>8 A. I decided to move on.</p> <p>9 Q. Was, did you move on before or after</p> <p>10 it was acquired, Kampyle?</p> <p>11 A. It was before it was acquired.</p> <p>12 Q. You left before it was acquired?</p> <p>13 A. Yes.</p> <p>14 Q. And where did you go after that?</p> <p>15 A. I went to Hola Networks.</p> <p>16 Q. And that was in approximately 2013?</p> <p>17 A. Yes, right after Kampyle.</p> <p>18 Q. And what did you do for Hola</p> <p>19 Networks?</p> <p>20 A. I was VP Growth and Marketing for</p> <p>21 the company.</p> <p>22 Q. And what sorts of activities did you</p> <p>23 do there then?</p> <p>24 A. So the company already reached</p> <p>25 product to market fit, in terms of that there was</p> <p style="text-align: center;">18</p>	<p>1 A. So, Rounds had one product at the</p> <p>2 time which was a video chat app also with text</p> <p>3 messaging and a bunch of expressive content on</p> <p>4 top of it as well. So, I worked on that.</p> <p>5 Q. Did you have any specific goals for</p> <p>6 the work that you did with respect to the video</p> <p>7 chat app?</p> <p>8 A. Yes. The, the company or the app</p> <p>9 grew very quickly in terms of its user base, but</p> <p>10 it reached some sort of plateau, stagnation in</p> <p>11 terms of growth. So my role was to reignite the</p> <p>12 growth of the adoption of this app.</p> <p>13 Q. Were you then employed by Kik</p> <p>14 Interactive, Inc.?</p> <p>15 A. Yes.</p> <p>16 Q. Following Rounds?</p> <p>17 A. Yes.</p> <p>18 Q. How did you come to be employed by</p> <p>19 Kik?</p> <p>20 A. Rounds was acquired by Kik. And,</p> <p>21 then I was employed by Kik as well at the</p> <p>22 beginning. Until I took on the role of the Chief</p> <p>23 Product Officer of Kik.</p> <p>24 Then I was employed by Kik Canada.</p> <p>25 Q. When you arrived, when you arrived</p> <p style="text-align: center;">20</p>

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<p>1 at Kik, meaning when Rounds was acquired by Kik, 2 and you came to be a Kik employee, what was Kik's 3 primary business? 4 A. I think primary business was the 5 Messenger. 6 Q. And what was the Messenger? 7 A. The chat. It was an app on the app 8 store, both on Google Play and the Apple App 9 Store, where users can download the app and 10 interact with each other. 11 Q. When you first arrived, do you have 12 any memory of what the usage was of the Kik 13 Messenger app? 14 A. In terms of numbers? 15 Q. Yes? 16 A. I don't remember the exact numbers. 17 Q. Were they significant numbers? 18 A. Yes, millions. 19 Q. And, you said at Kik you came to be 20 vice -- I'm sorry, Vice President of Product for 21 Kik Israel; is that right? 22 A. Yes, right after the acquisition, 23 that was my role. 24 Q. And then, after that role did you 25 get another role?</p> <p style="text-align: center;">21</p>	<p>1 A. I was travelling back and forth. 2 But I was located in Israel, yes, at that time. 3 Q. Were you responsible then for Kik 4 Messenger? 5 A. Yes. I was responsible for product 6 capacity and the Kik Messenger, not the 7 engineering, not the other functions around 8 marketing and ... 9 Q. When you say product capacity, what 10 do you mean? 11 A. So it is building new functionality, 12 deciding and defining what that functionality 13 should look like. 14 And then working alongside the 15 engineers in order to actually build this and 16 bring this to market. Working with marketing to 17 market this to the users. 18 Q. Did, at that time when you were 19 working on Kik Messenger when you first became 20 chief product officer, did Kik have any other 21 products? 22 A. As far as I recall, no. 23 Q. As Chief Product Officer, how many 24 people did you manage? 25 A. I think around 60.</p> <p style="text-align: center;">23</p>
<p>1 A. Yes. 2 Q. And what was that? 3 A. Chief Product Officer for Kik. 4 Q. And, when did you become Chief 5 Product Officer for Kik? 6 A. When? 7 Q. Correct. When? 8 A. I think it was either February or 9 March, 2017. 10 Q. And when did the acquisition occur? 11 A. In December or January, 2016, 2017. 12 Q. So, that was a fairly quick 13 promotion? 14 A. Yes. 15 Q. Once you became the Chief Product 16 Officer, what were your responsibilities? 17 A. My responsibilities were to oversee 18 all product related work and initiatives. 19 Q. Were you -- go ahead. 20 A. To manage the product capacity in 21 three offices, one in Tel Aviv, one in Waterloo, 22 Canada, and a smaller office in Toronto as well 23 focused on the bots. 24 Q. You were doing that from your office 25 in Israel?</p> <p style="text-align: center;">22</p>	<p>1 Q. Who at Kik had final authority to 2 make decisions about product issues? 3 MR. DEJARNETTE: Objection. 4 BY MR. MENDEL: 5 Q. You can answer. 6 A. I think at the time it was probably 7 Ted Livingston, the CEO. 8 Q. Did that authority change from 9 Mr. Livingston to somebody else? 10 A. No. 11 MR. DEJARNETTE: Objection. 12 THE WITNESS: No. 13 BY MR. MENDEL: 14 Q. When I say final authority, do you 15 understand what I mean? 16 A. Can you please clarify? 17 Q. Who could make the final decision on 18 what a product should consist of or how it should 19 change? 20 A. I think -- 21 MR. DEJARNETTE: Objection. You can 22 answer. 23 THE WITNESS: I think Ted 24 Livingston, yes. 25 BY MR. MENDEL:</p> <p style="text-align: center;">24</p>

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<p>1 Q. Again when you first assumed your 2 role as Chief Product Officer in February or 3 March of 2017, did you come to learn of any 4 challenges facing Kik Messenger? 5 A. Yes. 6 Q. Could you describe those? 7 A. Yes. I think very similar to what I 8 evidence at Rounds, is that the company grew very 9 quickly for a period of time. And then 10 plateaued. 11 And one of the questions that was, I 12 think the basis for promoting me to this role is 13 how can we continue to grow the user base of Kik. 14 Q. How was a plateau reflected? What 15 gave you evidence that the product had plateaued? 16 A. So, when looking at the quantity 17 numbers of monthly active users and daily active 18 users, we did not see any linear growth. 19 Q. So, just to rephrase what you said. 20 You mentioned daily active users? 21 A. Yes, daily and monthly active. 22 These are usually the metrics to look at. 23 Q. And Kik had visibility into those? 24 A. Yes, so I think that was the first 25 challenge. And the second challenge was around</p> <p>25</p>	<p>1 when you interact with other people. 2 I think most of the people using Kik 3 Messenger use it for the right purposes. 4 But there is a minority of users 5 using the Kik Messenger that are exploiting that 6 for, you know, negative purposes. 7 And as such, this, if I am a 8 teenager, I may be exposed to all kinds of safety 9 or bullying or, I don't know, other things that 10 could happen. 11 And as such, I think there was a 12 growing focus that, and that was a decision made 13 by Ted to keep the anonymity of the Messenger, 14 which is a core value of the Messenger, but at 15 the same time also attend to the safety of the 16 users using the Messenger. 17 Q. And that safety issue or set of 18 issues that you have just described, that is 19 something that you addressed as Chief Product 20 Officer when you first had that position? 21 A. At the beginning it was actually 22 managed or the executive oversight was from the 23 Chief People Officer, Alim. 24 And, at one point in time it was 25 transferred to me.</p> <p>27</p>
<p>1 how to approach product in general. 2 When I joined Kik and took on the 3 role, it was after I think anywhere between 18 4 and 24 months, they launched a features and 5 functionality that they worked on approximately 6 six months or so. But it didn't resonate with 7 the user base. 8 It did not actually being adopted or 9 change the retention or adoption of users within 10 the app. 11 Q. Was Kik dealing with safety issues 12 when you became chief product officer? 13 A. Yes. 14 MR. DEJARNETTE: Objection. 15 THE WITNESS: But that would be the 16 third, yes, so ... 17 BY MR. MENDEL: 18 Q. Can you describe what the safety 19 issues were? 20 A. So, I think, let me try and provide 21 more context. 22 Kik Messenger, very different from 23 other messengers, is anonymous. 24 So, it is not tied to your identity. 25 So that allows far greater degrees of freedom</p> <p>26</p>	<p>1 So, I manage Catherine, I think, 2 Teitelbaum who managed a safety team. 3 Q. On, in terms of the challenges that 4 you saw Kik facing with its Messenger app, was it 5 also an issue that you believed users were using 6 the Kik app as a screening app for then 7 contacting people on other devices or other 8 applications? 9 MR. DEJARNETTE: Objection. 10 THE WITNESS: I don't think that is 11 a challenge. I think it is an insight. 12 And I think there is, that is one of 13 the points of divergence between me and Ted 14 Livingston, the CEO. 15 I think Ted is an amazing visionary, 16 but he had, I think, something in his head 17 around how the Messenger is being used. 18 And I am a much more fact-based, 19 data-driven in my approach. 20 So, when we actually conducted 21 research with Kik users, some of them said 22 that they are actually using Kik for a very 23 different purpose than what Ted had in mind. 24 Because of that gap, I think it was 25 difficult to build the functionality. I</p> <p>28</p>

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1 connected the dots between that and the
2 functionality that was launched in the
3 prior 18 to 24 months. And I think that is
4 part of the reason why Kik was not able to
5 continue to grow.
6 Because if you are building
7 something for the wrong audience, or you are
8 building the right thing, it really matters.
9 And will it actually resonate well with the
10 Kik user base.
11 BY MR. MENDEL:
12 Q. And can you describe further the
13 issue that I alluded to, what it meant for users
14 to use Kik as a screening app?
15 A. Yes. So, one of the things that we
16 realized is that most teens use multiple social
17 media or messaging apps in parallel. And they
18 use each one of them for a different purpose.
19 So, as a teenager I may have
20 Snapchat and I have Instagram. So on Instagram I
21 would probably show and post my ideal self. It
22 is something that I want everyone to think. It
23 is the, you know, the perfect person on the beach
24 and/or I do all kinds of, I look really great on
25 Instagram. On Snapchat I can be my authentic

29

1 self.
2 And, you know, because these apps
3 are much more tied to the real identity of a
4 person, there is no easy way for you to bring on
5 new people that you meet randomly.
6 So, if I go to a party, for example,
7 and I like someone, okay. So, if I give them my
8 Instagram or I give them my Snapchat, that is too
9 much of a risk for me as a teenager.
10 So, what they would probably do is
11 use Kik, because it is very easy to just delete
12 your account and open a new one.
13 I would connect with them. If
14 everything goes well in Kik, then I would also
15 transfer that into Instagram and Snapchat.
16 So, in that sense it was a screening
17 app, almost like a buffer that I could use in
18 case that something goes wrong.
19 Q. Was this an insight that you gleaned
20 yourself?
21 A. Yes.
22 Q. And was this news to Ted Livingston?
23 A. Yes.
24 MR. DEJARNETTE: Objection.
25 Let me get my objections in.

30

1 THE WITNESS: Okay. Yes.
2 BY MR. MENDEL:
3 Q. Was there something called an
4 executive team at Kik?
5 A. Yes.
6 Q. Were you on the executive team?
7 A. Yes.
8 Q. Who else was on it?
9 A. Ted Livingston, the CEO. Peter
10 Heinke, the Chief Financial Officer; Erin Clift,
11 the CMO; Alim, I think Dhanji, the Chief People
12 Officer; Dany Fishel, the Kik Israel president;
13 Dave Simons was a Senior Vice President of
14 Engineering, and myself.
15 Q. Can you spell Alim's last name?
16 A. That is the part I'm not sure about.
17 But I think it is D-H-A-N-J-I.
18 Q. Thank you. Did the executive team
19 have its own meetings?
20 A. Yes.
21 Q. Did it have its own e-mail group?
22 A. Yes.
23 Q. Did the executive team as a whole
24 attend meetings of Kik's Board of Directors?
25 MR. DEJARNETTE: Objection.

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1 THE WITNESS: So, we attended some
2 of them. And I, as far as I recall we
3 attended some portions of the meetings.
4 So, we didn't, I think we attended
5 all of them. But, certain times we either
6 stepped out of the room at certain points in
7 time or joined later after Ted, and sometimes
8 Ted and Peter had a separate conversation
9 with the board.
10 BY MR. MENDEL:
11 Q. Would you ever attend meetings of
12 the Board of Directors irrespective of whether
13 other members of the executive team also
14 participated?
15 A. Can you please clarify the question?
16 Q. Sure. Going back, I had asked you
17 whether the executive team had participated in
18 meetings of the Board of Directors.
19 Did you, yourself, participate in
20 meetings with the Board of Directors?
21 A. Yes.
22 Q. And, do you remember following your,
23 taking the title of Chief Product Officer, do you
24 remember the meetings that you attended?
25 MR. DEJARNETTE: Objection.

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<p>1 THE WITNESS: I remember attending 2 meetings. I don't remember specific dates 3 or -- 4 BY MR. MENDEL: 5 Q. Do you remember meetings of the 6 Kik's Board of Directors that you attended? 7 A. Yes. 8 Q. That you became Chief Product 9 Officer? 10 A. Sorry, yes. 11 Q. And are you able to list them? 12 A. List the meetings? 13 Q. Yes. Or are you able to identify 14 from memory the meetings that you attended? 15 A. I can try, definitely. 16 Q. Go ahead. 17 A. Okay. I think there was a board 18 meeting right after I took on the role where 19 Blockchain crypto was initially discussed. 20 And also in that meeting I think I 21 discussed the findings after conducting 22 interviews with many people in Waterloo around 23 the product process. 24 I think there was a later board 25 meeting once we made some progress. I don't</p> <p>33</p>	<p>1 discussed then. 2 (Exhibit Number 3 3 marked for identification.) 4 BY MR. MENDEL: 5 Q. Mr. Ben-Ari, I have provided you 6 what has been marked as Deposition Exhibit 3. 7 You will also see an Exhibit 8 Number on it that says 25. 9 The 25 refers to the Exhibit 10 Number from the investigation that was conducted 11 in the case. 12 You may see that periodically on the 13 different documents that I'm handing to you. 14 But, for purposes of this 15 deposition, the Exhibit Number is Exhibit 3. 16 And, to further identify the 17 document at the top it says Minutes of the 18 Meeting of the Board of Directors of Kik 19 Interactive, Inc. and its is also marked by what 20 we call Bates numbers, those little numbers on 21 the bottom of the page that are different for 22 each page. 23 And the first page of Exhibit 3 is 24 Kik_00078776. It is a three-page document. So, 25 the last page is Kik_00078778.</p> <p>35</p>
<p>1 recall exactly, around the white paper. Or the 2 research before the white paper. That is blurry 3 to me. 4 Q. And when you say white paper are you 5 referring to the white paper for the digital 6 token, Kin? 7 A. Yes, but I want to correct myself. 8 I think it was after research around 9 the viability of going down the path of crypto 10 and Blockchain. It was before the white paper. 11 But, I don't recall exactly if we 12 discussed both of them at the board meeting, only 13 one of them. I don't recall exactly. 14 Q. So, that is two board meetings that 15 you remember? 16 A. Yes. 17 Q. Do you remember any other meetings 18 that you participated in? 19 A. Yes, later on. 20 Q. Later meaning, what time period? 21 A. I think it was around, I think it 22 was October, but it is very blurry. I don't 23 recall what we discussed then. 24 Q. October of 2017? 25 A. Yes, but I do not recall what we</p> <p>34</p>	<p>1 Have you ever seen what has been 2 marked as Exhibit 3 before? 3 A. No. I may have in the previous 4 investigation. But I don't recall seeing this 5 document. 6 Q. Okay. You haven't seen this 7 previously? 8 A. I don't recall seeing this 9 previously. I may have. 10 Q. Have you ever seen minutes of the 11 Board of Directors meetings of Kik? 12 A. I don't recall seeing minutes of the 13 board meetings. 14 Q. Okay. So, understanding that you 15 don't remember this document, let's read portions 16 of it and see what you remember from what is 17 being discussed. 18 At the top it says the Video Meeting 19 of the Board of Directors, the Board of Kik 20 Interactive, Inc., where the company was held at 21 5:30 p.m. EDT on Thursday February 16, 2017. 22 And if you go down a little bit on 23 the first page there is Directors Present and it 24 lists the directors, Directors Absent, and then 25 Company Personnel Present, and there is five</p> <p>36</p>

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1 people listed and you are at the top, Eran
2 Ben-Ari.
3 **A.** Yes, I can see that.
4 **Q.** Do you believe that this February 16,
5 2017 Board of Directors meeting was the first
6 meeting that you attended?
7 **A.** As far as I recall, yes.
8 **Q.** So, working down the page toward the
9 bottom there is a section called New Strategic
10 Direction.
11 Do you see that?
12 **A.** I do. Yes.
13 **Q.** And, it states that "Ms. Clift
14 reviewed with the board the research surrounding
15 the proposed strategy involving cryptocurrency.
16 "Questions were asked and discussion
17 ensued."
18 Who is Ms. Clift again? Can you
19 remind us?
20 **A.** Ms. Clift was the Chief Marketing
21 Officer for Kik at that time.
22 **Q.** And, does this seem to be the
23 presentation that she gave to the board that you
24 remembered in your testimony just a few minutes
25 ago?

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1 **MR. DEJARNETTE:** Objection.
2 **THE WITNESS:** It could be. I don't
3 know.
4 **BY MR. MENDEL:**
5 **Q.** You recall Erin Clift talking to the
6 board about crypto issues, correct?
7 **MR. DEJARNETTE:** Objection.
8 **THE WITNESS:** I recall very vaguely,
9 blurry, that we discussed this with the
10 board. I don't know whether this was the
11 meeting that we discussed it.
12 **BY MR. MENDEL:**
13 **Q.** You said you recall very vaguely,
14 I'm sorry, what that you discussed is?
15 **A.** That we, the usage of, direction to
16 focus on crypto was discussed with the board.
17 I'm not certain that this is the meeting that it
18 was discussed with the board.
19 **MR. DEJARNETTE:** I'm going to
20 caution you with respect to discussions
21 involving this board meeting, to the extent
22 it reflects any attorney/client
23 communications, I'm going to instruct you
24 not to answer.
25 **THE WITNESS:** Okay.

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1 **BY MR. MENDEL:**
2 **Q.** Right. So, along those lines, if
3 you think that any of my questions are calling
4 for attorney/client privileged information,
5 please let us know.
6 **A.** Okay.
7 **Q.** And we will try to work around that.
8 Okay?
9 **A.** I will. Thank you.
10 **Q.** It is not my intention to invade the
11 privilege.
12 So, are you able to say, looking at
13 Exhibit 3, what the new cryptocurrency strategy
14 was that Ms. Clift was discussing?
15 **A.** As you can see, there is an
16 asterisks around my name and I, this may have
17 been my first board meeting.
18 As you can see on Page 2, is that I
19 provided the product update.
20 I'm not 100 percent sure that I
21 actually attended the first part.
22 And if I did, then probably because
23 this was the first time that I presented to the
24 board all of my attention was to actually nail
25 the presentation to the board. That is usually

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1 what happens.
2 **Q.** Understood.
3 **A.** That is probably why I don't recall
4 anything else that happened then.
5 I do remember what I presented to
6 the board if that is helpful.
7 **Q.** We will talk about that. Yes, that
8 is helpful, too.
9 **A.** Sure.
10 **Q.** And so, what I want to know is, you
11 do recall learning about cryptocurrency, a new
12 cryptocurrency strategy at a board meeting,
13 correct?
14 **MR. DEJARNETTE:** Objection.
15 **THE WITNESS:** I, yes, I remember
16 discussing it during the board. I don't know
17 if this was the meeting though. Yes.
18 **BY MR. MENDEL:**
19 **Q.** Fair enough. And my next question
20 is, at that board meeting where you did attend
21 discussion of a cryptocurrency strategy, was that
22 the first time that you had learned of the
23 cryptocurrency strategy?
24 **MR. DEJARNETTE:** Objection.
25 **THE WITNESS:** No. No.

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<p>1 BY MR. MENDEL:</p> <p>2 Q. When was the first time that you</p> <p>3 learned of Kik's potential interest in</p> <p>4 cryptocurrency?</p> <p>5 A. So, one of the first executive</p> <p>6 meetings that I attended, the idea was discussed</p> <p>7 as part of the executive team meeting.</p> <p>8 Q. When did that occur?</p> <p>9 A. I think it was just after I took on</p> <p>10 the role of the Chief Product Officer. I don't</p> <p>11 remember the exact date.</p> <p>12 Q. Who was at that meeting?</p> <p>13 A. As far as I recall Ted Livingston,</p> <p>14 Peter Heinke, Dany Fishel, Erin Clift.</p> <p>15 But other members I don't remember</p> <p>16 because I was remote. Both me and Dany, we</p> <p>17 Zoomed in from the Tel Aviv office. So I don't</p> <p>18 remember seeing who else was in the room. I just</p> <p>19 remember the people talking.</p> <p>20 So other people may have been in the</p> <p>21 room, but I do not recall.</p> <p>22 Q. Going back to this, these minutes in</p> <p>23 Exhibit 3 of the February 16th, 2017 board</p> <p>24 meeting, and going to Page 2 of that exhibit, if</p> <p>25 you -- do you have that?</p> <p style="text-align: center;">41</p>	<p>1 Q. Moving down the minutes, there is,</p> <p>2 the next section is called Burn Rate. There is a</p> <p>3 bold faced subtitle.</p> <p>4 And then it states that</p> <p>5 "Mr. Livingston indicated to the board the status</p> <p>6 of his review" -- I'm sorry, let me start over.</p> <p>7 "Mr. Livingston indicated to the</p> <p>8 board that he and the management team needed an</p> <p>9 additional three weeks to fully flesh out the new</p> <p>10 strategy.</p> <p>11 "Further he and the management team</p> <p>12 were recommending that no cuts in staffing occur</p> <p>13 until that was done since management did not know</p> <p>14 what particular expertise would be required if</p> <p>15 the board proceeded with the new strategy.</p> <p>16 "The questions were asked and</p> <p>17 discussion ensued surrounding budget cuts."</p> <p>18 Do you have any recollection of this</p> <p>19 discussion at the board meeting that you</p> <p>20 attended?</p> <p>21 A. Not as I -- not -- I do not</p> <p>22 remember. Again, very blurry. Vaguely I</p> <p>23 remember. We discussed it. I don't remember if</p> <p>24 it was in front of the board or the executive</p> <p>25 team.</p> <p style="text-align: center;">43</p>
<p>1 A. Yes.</p> <p>2 Q. Can you turn the page to the second</p> <p>3 page? Do you have it?</p> <p>4 A. Yes.</p> <p>5 Q. There is something called Product</p> <p>6 Update at the top.</p> <p>7 A. Yes.</p> <p>8 Q. And it says, "Mr. Ari reviewed with</p> <p>9 the board the status of his review of the product</p> <p>10 and the team and his near term plans relating to</p> <p>11 the product."</p> <p>12 Do you recall what it is that you</p> <p>13 included in this update?</p> <p>14 A. Yes, as far as I recall, it was a,</p> <p>15 almost like a diagnostics.</p> <p>16 I think I, after conducting</p> <p>17 interviews with 30 or 50 team members, especially</p> <p>18 in Waterloo, and things came out that we should</p> <p>19 probably, are challenges when you develop</p> <p>20 product, and we should approach it differently.</p> <p>21 So, I shared with the board that</p> <p>22 diagnostics and how we intend to move forward.</p> <p>23 Q. Did it have any, did your discussion</p> <p>24 have anything to do with cryptocurrency?</p> <p>25 A. No.</p> <p style="text-align: center;">42</p>	<p>1 Q. Do you recall around February of</p> <p>2 2017 concerns among the executive team about</p> <p>3 Kik's burn rate?</p> <p>4 MR. DEJARNETTE: Objection.</p> <p>5 THE WITNESS: I remember that we had</p> <p>6 burn rate for another 12 months. And it was</p> <p>7 a topic for discussion on how do we move</p> <p>8 forward from that point onwards.</p> <p>9 High level, I think, I joined when</p> <p>10 they did for a very short time discuss</p> <p>11 whether or not to make cuts or fire people.</p> <p>12 But, that is as far as I remember.</p> <p>13 BY MR. MENDEL:</p> <p>14 Q. When you say we had burn rate for</p> <p>15 another 12 months, does that mean that it was</p> <p>16 projected that Kik would run out of money in</p> <p>17 12 months?</p> <p>18 A. It would mean that the money that</p> <p>19 Kik had would be sufficient to sustain with the</p> <p>20 existing head count for another 12 months.</p> <p>21 Q. And if it wanted to go longer, then</p> <p>22 it would look toward budget cuts?</p> <p>23 MR. DEJARNETTE: Objection.</p> <p>24 THE WITNESS: I don't know what it</p> <p>25 means. That is probably a question for</p> <p style="text-align: center;">44</p>

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<p>1 Peter, the CFO. 2 BY MR. MENDEL: 3 Q. Further on Exhibit 3 on Page 2 it is 4 the in the middle of the page, "Meeting of the 5 board reconvened on February 23rd, 2017, at 6 3:00 p.m. Eastern Standard Time via video 7 meeting." 8 Do you recall attending a reconvened 9 meeting? 10 A. No. 11 Q. Going to Page 3 of Exhibit 3 at the 12 top it says Burn Rate. 13 It seems like another discussion of 14 burn rate. "Mr. Livingston reviewed the steps 15 the company took to reduce the burn rate to 16 2.5 million a month and the additional steps it 17 would take to reduce it further." 18 Do you remember the burn rate being 19 higher than 2.5 million at this time? 20 A. I do not recall the number. 21 Q. The next paragraph says New 22 Strategic Direction. In the middle of that 23 paragraph on Page 3 it states with respect to 24 Mr. Livingston, "He then reviewed next steps for 25 the company which included driving CoinFund to</p> <p style="text-align: center;">45</p>	<p>1 MR. DEJARNETTE: Objection. 2 THE WITNESS: I do not know why they 3 were hired at that time. I know what they 4 helped us with, or helped Kik with, was as 5 far as I recall there was something around a 6 survey, an interest around that. 7 And, like, whether or not the Kin 8 token will get traction. 9 And the second part was actually 10 helping write the white paper. And I think 11 the, as far as I recall their, one of their 12 people was Jake, and he actually wrote the 13 white paper draft. And that was later 14 approved by Ted Livingston. 15 BY MR. MENDEL: 16 Q. When you say they wrote the draft, 17 this is Jake at CoinFund. 18 Did employees of Kik also help draft 19 the white paper? 20 A. Yes. As far as I recall, yes. 21 Q. Your memory is that CoinFund did a 22 first draft of it; is that right? 23 A. I don't remember if it is the first 24 draft. I do remember that we were all sitting in 25 a meeting room in Tel Aviv and Jake went to the</p> <p style="text-align: center;">47</p>
<p>1 determine investor interest in a Kik coin and 2 continuing to drive the Credit Suisse process." 3 Do you see that? 4 A. Yes, I do. 5 Q. Do you know who CoinFund was? 6 A. At that point in time? 7 Q. Do you know right now who CoinFund 8 is? 9 A. I do. Yes. 10 Q. What is CoinFund? 11 A. CoinFund were advisors that helped 12 Kik write the white paper. 13 Q. Do you recall any discussion in 14 February of 2017 in a board meeting about hiring, 15 Kik hiring CoinFund? 16 A. I do not recall that. 17 Q. Do you know whether or not Kik did 18 hire CoinFund eventually? 19 A. It did hire Coin -- yes, I do not 20 know the business terms. But, yes. 21 Q. Is it your understanding based on 22 what you know about Kik and its hiring of 23 CoinFund, is it your understanding that CoinFund 24 was hired to determine investor interest in a Kik 25 coin?</p> <p style="text-align: center;">46</p>	<p>1 hotel and wrote something and everybody clapped 2 because we had a good solid draft of the white 3 paper. 4 I don't know if it was the first 5 draft or a later draft, but ... 6 Q. And then subsequent to that, other 7 people at Kik worked on the draft, correct? 8 A. Yes. As far as I remember, yes. 9 Q. I will take that Exhibit 3 from you. 10 Thank you. 11 (Exhibit Number 4 12 marked for identification.) 13 BY MR. MENDEL: 14 Q. I am providing you with what has 15 been marked Exhibit 4. It's prior investigative 16 testimony Exhibit 14A, Deposition Exhibit 4. It 17 is on the first page, there is an e-mail from Ted 18 Livingston dated February 16th, 2017, to Kik 19 Board and it is also identified by the Bates 20 numbers on the lower right-hand corner, 21 Kik_00026450 running to on the last page 22 Kik_00026494. 23 And you will see that it is a cover 24 e-mail and then on Page 2 of Exhibit 4 there is a 25 caption for Board Meeting, February 16th, 2017.</p> <p style="text-align: center;">48</p>

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<p>1 Do you recognize Exhibit 4?</p> <p>2 A. I do.</p> <p>3 Q. What is it?</p> <p>4 MR. DEJARNETTE: Objection. I just</p> <p>5 want to note for the record that the witness</p> <p>6 is not on the cover e-mail.</p> <p>7 BY MR. MENDEL:</p> <p>8 Q. What is it?</p> <p>9 A. It seems like the slides from the</p> <p>10 board deck.</p> <p>11 Q. These are slides from the, that were</p> <p>12 presented to the board for the meeting in</p> <p>13 February 16th, 2017?</p> <p>14 A. As I said earlier, I may have not</p> <p>15 participated in all the board.</p> <p>16 So, I can skim through to the, on</p> <p>17 Page 3.</p> <p>18 Q. Yes.</p> <p>19 A. Where there is Bullet Number 3, the</p> <p>20 Potential For Growth.</p> <p>21 And I can review that and I can</p> <p>22 testify whether or not this is what I presented</p> <p>23 to the board, if that is helpful.</p> <p>24 MR. DEJARNETTE: Do you mean Page 2?</p> <p>25 MR. MENDEL: He means Page 2 of the</p> <p style="text-align: center;">49</p>	<p>1 Blockchain.</p> <p>2 A. Yes, I can see that.</p> <p>3 Q. Does this seem to be the section</p> <p>4 that Erin Clift provided?</p> <p>5 A. This may have been the section that</p> <p>6 she provided.</p> <p>7 Q. Let's turn to Page 11 of the board</p> <p>8 deck. Kik. Are you there?</p> <p>9 A. Yes.</p> <p>10 Q. And, this is another slide, correct?</p> <p>11 A. It seems like it, yes.</p> <p>12 Q. And then there is a visual and then</p> <p>13 in a block within the visual it states, "We</p> <p>14 believe that the scale of our network alone will</p> <p>15 drive strong interest from the crypto investor</p> <p>16 community."</p> <p>17 Do you see that?</p> <p>18 A. I do, yes.</p> <p>19 Q. And do you recall Ms. Clift</p> <p>20 providing that statement?</p> <p>21 A. No.</p> <p>22 Q. Is that something that you agreed</p> <p>23 with around the time that Kik was considering a</p> <p>24 digital coin?</p> <p>25 MR. DEJARNETTE: Objection.</p> <p style="text-align: center;">51</p>
<p>1 PowerPoint, the deck, and Page 3 of the</p> <p>2 exhibit, I think.</p> <p>3 THE WITNESS: It is Bates 00026452.</p> <p>4 BY MR. MENDEL:</p> <p>5 Q. And looking at that page that you</p> <p>6 have just mentioned it says Agenda: 1, Process</p> <p>7 Update, Ted; 2, the potential for an ICO, Erin;</p> <p>8 and then 3, the Potential For Growth, Eran,</p> <p>9 correct?</p> <p>10 A. Yes, correct.</p> <p>11 Q. Do you know what ICO stands for?</p> <p>12 A. I think the intention was Initial</p> <p>13 Coin Offering.</p> <p>14 Q. Did you help prepare this board</p> <p>15 deck?</p> <p>16 A. If I can go and see the slides then</p> <p>17 I can tell you if I prepared my slides.</p> <p>18 Q. Okay. Sure. Let me walk through it</p> <p>19 with you then. If we go to Board Deck Page 5,</p> <p>20 let me identify the Bates numbers because the</p> <p>21 five isn't very visible, Kik_00026455.</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. And it says, there is a picture of</p> <p>25 two people sitting and it says Kik and the</p> <p style="text-align: center;">50</p>	<p>1 THE WITNESS: Can you just clarify</p> <p>2 the question? What did I agree with exactly?</p> <p>3 BY MR. MENDEL:</p> <p>4 Q. Did you believe what, did you agree</p> <p>5 with the statement that the scale of Kik's</p> <p>6 network alone will drive strong interest from the</p> <p>7 crypto investor community?</p> <p>8 MR. DEJARNETTE: Objection.</p> <p>9 THE WITNESS: I don't know what</p> <p>10 crypto investor community meant for Erin at</p> <p>11 that time so it is difficult for me to answer</p> <p>12 that question.</p> <p>13 BY MR. MENDEL:</p> <p>14 Q. Well, yes, okay. Let's go to</p> <p>15 Page 14. And this is Kik_00026464.</p> <p>16 It states the Bigger Picture. Do</p> <p>17 you see that.</p> <p>18 A. I do, yes.</p> <p>19 Q. Is this your section?</p> <p>20 A. I do not remember this section, no.</p> <p>21 Q. So, if you look through the next few</p> <p>22 pages.</p> <p>23 Does any of this look familiar to</p> <p>24 you?</p> <p>25 A. No, I -- I do not recall this. I do</p> <p style="text-align: center;">52</p>

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<p>1 recall Bates 0026474[sic].</p> <p>2 Q. So that is a section that is called</p> <p>3 Back to Growth?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And then, going to the next</p> <p>6 page it says Initial Signs, right. And then the</p> <p>7 page after that is Page 26 of the PowerPoint. Is</p> <p>8 that right?</p> <p>9 A. Yes.</p> <p>10 Q. And it says on the left-hand side,</p> <p>11 "Only 7 percent DAU." What does that mean?</p> <p>12 A. I think it is just part of the</p> <p>13 sentence. "Only 7 percent daily active users</p> <p>14 used public groups."</p> <p>15 Q. Okay. And were you responsible for</p> <p>16 this section?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And, until what page were you</p> <p>19 responsible?</p> <p>20 A. Until Bates 00026489.</p> <p>21 Q. Going back to Page 26, the statement</p> <p>22 on the bottom says, "DAU and MAU starting to</p> <p>23 flatten (plus 2.5 percent)."</p> <p>24 Is this the plateau that you talked</p> <p>25 about earlier?</p> <p>53</p>	<p>1 Is that consistent with your memory</p> <p>2 of how much cash Kik had left?</p> <p>3 A. I don't remember how much cash was</p> <p>4 left.</p> <p>5 MR. DEJARNETTE: Objection.</p> <p>6 THE WITNESS: I just remember they</p> <p>7 had, Kik had enough cash for 12 months of</p> <p>8 operations.</p> <p>9 BY MR. MENDEL:</p> <p>10 Q. Well, the third bullet down says,</p> <p>11 "Runway to October 4th, 2017." Is that</p> <p>12 consistent with your memory of the financial</p> <p>13 situation at the time of Kik?</p> <p>14 A. No. Because October, if this was</p> <p>15 February and October is just eight months away.</p> <p>16 I remember 12 months.</p> <p>17 Q. Okay. What about the 2.9 million of</p> <p>18 normalized current burn?</p> <p>19 A. I do not remember that.</p> <p>20 Q. Head count of 166. Does that sound</p> <p>21 right?</p> <p>22 A. Could be, yes.</p> <p>23 Q. Any reason to doubt that?</p> <p>24 A. No.</p> <p>25 Q. Do you have any reason to doubt any</p> <p>55</p>
<p>1 MR. DEJARNETTE: Objection.</p> <p>2 THE WITNESS: Yeah, I don't exactly</p> <p>3 remember what this means. It may be related.</p> <p>4 I think there are also like charts and</p> <p>5 graphs, the following pages that reflect</p> <p>6 this, but ...</p> <p>7 BY MR. MENDEL:</p> <p>8 Q. What is your understanding of what</p> <p>9 this means?</p> <p>10 A. Yeah, I think it does relate to the</p> <p>11 plateau.</p> <p>12 Q. The plateau of what?</p> <p>13 A. Of daily active users and monthly</p> <p>14 active users represented by DAU and MAU.</p> <p>15 Q. Of the Kik Messenger?</p> <p>16 A. Of the Kik Messenger user base, yes.</p> <p>17 Q. And can you go to Page 42 of the</p> <p>18 board deck. And that is Kik_00026492.</p> <p>19 A. Yes.</p> <p>20 Q. It is a, on this page it says Where</p> <p>21 We Are Now.</p> <p>22 Do you recall this page?</p> <p>23 A. No.</p> <p>24 Q. "Current situation, 23.8 million in</p> <p>25 cash as of January 31st, 2017."</p> <p>54</p>	<p>1 of these figures?</p> <p>2 MR. DEJARNETTE: Objection.</p> <p>3 THE WITNESS: I simply don't</p> <p>4 remember. I don't recall this. So, I can't</p> <p>5 say if I agree or don't.</p> <p>6 BY MR. MENDEL:</p> <p>7 Q. Did you, but you did help prepare</p> <p>8 this board deck, correct?</p> <p>9 MR. DEJARNETTE: Objection.</p> <p>10 THE WITNESS: I prepared the portion</p> <p>11 of my slides in the board deck. It is not</p> <p>12 that we worked together on the entire board</p> <p>13 deck. It doesn't work that way.</p> <p>14 BY MR. MENDEL:</p> <p>15 Q. Your slides were incorporated into</p> <p>16 the board deck?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Did you receive a copy of the</p> <p>19 entire board deck?</p> <p>20 A. I do not recall.</p> <p>21 Q. I will take Exhibit 4 back, thank</p> <p>22 you.</p> <p>23 A. Thank you.</p> <p>24 (Exhibit Number 5</p> <p>25 marked for identification.)</p> <p>56</p>

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<p>1 BY MR. MENDEL:</p> <p>2 Q. I have provided you a copy of what</p> <p>3 has been marked Exhibit 5 for the deposition.</p> <p>4 Kik in the lower right-hand corner</p> <p>5 Kik_00044719 on the first page. And on the last</p> <p>6 page of Exhibit 5 we have Kik_00044725.</p> <p>7 And going to the first page, we see</p> <p>8 that it was also Investigative Exhibit 106. And,</p> <p>9 on the top of the first page it says Review of</p> <p>10 CoinFund Deliverable, March 22nd, 2017.</p> <p>11 Do you recognize what has been</p> <p>12 marked as Exhibit 5?</p> <p>13 A. Yes.</p> <p>14 Q. And what is it?</p> <p>15 A. I think it is a summary of a</p> <p>16 discussion we had around Coin Finder deliverable.</p> <p>17 Q. There is a list of attendees and you</p> <p>18 are listed as one of them, Eran, right?</p> <p>19 A. Yes.</p> <p>20 Q. Was this a meeting that took place?</p> <p>21 A. I think so, yes.</p> <p>22 Q. Where did you participate in the</p> <p>23 meeting?</p> <p>24 A. Did I participate in the meeting?</p> <p>25 Q. Where did you participate in the</p> <p style="text-align: center;">57</p>	<p>1 CoinFund, and then further down the page, it is a</p> <p>2 cover page, and it says Token Integration</p> <p>3 Research and Proposed Economics Prepared For Kik</p> <p>4 Interactive, Inc. dated March 21st, 2017.</p> <p>5 The lower right-hand corner is</p> <p>6 marked by the numbers CoinFund 007691, and on the</p> <p>7 last page CoinFund 007747.</p> <p>8 And then this was also Investigative</p> <p>9 Exhibit 39 but for the this deposition, Exhibit 6.</p> <p>10 Do you recall seeing Exhibit 6</p> <p>11 before?</p> <p>12 A. I remember skimming through it, yes.</p> <p>13 Q. What is it?</p> <p>14 A. I think it is the CoinFund summary</p> <p>15 of the research they conducted.</p> <p>16 And the proposed next steps.</p> <p>17 Q. So, this is dated March, at least on</p> <p>18 the first page, March 21st, 2017. And you saw in</p> <p>19 Exhibit 5, you saw Exhibit 5 that the review of</p> <p>20 CoinFund Deliverable was a day later, March 22nd,</p> <p>21 2017, right?</p> <p>22 A. Yes.</p> <p>23 Q. So is Exhibit 6 the deliverable?</p> <p>24 A. I think it is --</p> <p>25 MR. DEJARNETTE: I will note for the</p> <p style="text-align: center;">59</p>
<p>1 meeting?</p> <p>2 A. I don't remember. Either in Tel</p> <p>3 Aviv as a Zoom or in Waterloo.</p> <p>4 Q. So, this is, this exhibit was</p> <p>5 compiled after CoinFund had already performed</p> <p>6 some work for Kik. Is that right?</p> <p>7 A. I do not recall.</p> <p>8 Q. Well it says Review of CoinFund</p> <p>9 Deliverable.</p> <p>10 Do you know what that refers to?</p> <p>11 A. It may, I think at the time it is</p> <p>12 probably around the research or on the viability</p> <p>13 of the crypto strategy.</p> <p>14 Q. Did you review the CoinFund</p> <p>15 Deliverable?</p> <p>16 MR. DEJARNETTE: Objection.</p> <p>17 THE WITNESS: What exactly is the</p> <p>18 CoinFund Deliverable? It can mean multiple</p> <p>19 things.</p> <p>20 (Exhibit Number 6</p> <p>21 marked for identification.)</p> <p>22 BY MR. MENDEL:</p> <p>23 Q. I am providing you what has been</p> <p>24 marked as Exhibit 6.</p> <p>25 The first page says at the top</p> <p style="text-align: center;">58</p>	<p>1 record that this is a long document. Feel</p> <p>2 free to skim it if you need to become</p> <p>3 familiar with it.</p> <p>4 THE WITNESS: Yeah, I would be happy</p> <p>5 to.</p> <p>6 MR. MENDEL: Do you want to take a</p> <p>7 minute and look at it.</p> <p>8 THE WITNESS: That is all right?</p> <p>9 BY MR. MENDEL:</p> <p>10 Q. Absolutely.</p> <p>11 A. Thank you. Okay. I went through</p> <p>12 it.</p> <p>13 Q. Is Exhibit 6 the CoinFund</p> <p>14 Deliverable that was reviewed as part of the</p> <p>15 meeting that took place on March 22nd?</p> <p>16 A. I think it is fair to assume, yes.</p> <p>17 Q. And you reviewed the CoinFund</p> <p>18 Deliverable or Exhibit 6 when you received it?</p> <p>19 A. I skimmed through it. At that time,</p> <p>20 maybe a broader context is important here.</p> <p>21 This was very early stages of, you</p> <p>22 know, shifting and the strategy of the company</p> <p>23 towards crypto and Blockchain. And both myself</p> <p>24 and Dave Simons, the STP engineering we got a</p> <p>25 clear directive from Ted Livingston, the CEO, to</p> <p style="text-align: center;">60</p>

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<p>1 focus on the Kik Messenger. 2 So, around this time I probably 3 invested anywhere between 5 and 10 percent of my 4 time in everything related to crypto, everything 5 related to things. 6 So, and also this is probably a few 7 weeks after I took on the role of the Chief 8 Product Officer. 9 So, I remember skimming through it. 10 But, I absolutely did not spend a 11 lot of time reading through the document. 12 Q. So, by the time that you received 13 the deliverable, the company had already shifted 14 to considering crypto; is that right? 15 MR. DEJARNETTE: Objection. 16 THE WITNESS: I don't know if the 17 company made the decision to shift to crypto. 18 I know they had, they got a deliverable. 19 And, we were discussing what are the next 20 steps. 21 BY MR. MENDEL: 22 Q. Was Mr. Livingston investing in 23 resources in exploring crypto? 24 MR. DEJARNETTE: Objection. 25 THE WITNESS: I don't know.</p> <p style="text-align: center;">61</p>	<p>1 And, the survey here, and I remember 2 that was probably my only point. That's why I 3 also didn't focus on reading through the entire 4 research. I don't think it was actually used 5 any, like, sound methodological best practices. 6 So, inferring anything from the 7 survey, I remember we had, vaguely I remember 8 saying something around that. So, I had doubts 9 around that. 10 Q. As somebody involved in product, do 11 you conduct surveys? 12 A. Yes. 13 Q. Going to Page 7 of Exhibit 6, there 14 is, in the middle of the page, a title that says, 15 or a caption rather that says, Notable Token 16 Sales. Do you see that? 17 A. Yes, I do. 18 Q. And if you go down toward the bottom 19 there is a new paragraph that states, "The 20 following outlines some observations about the 21 token sales space." This is in Exhibit 6. 22 And it says, "One, the investment 23 space is extremely hot." 24 Do you see that? 25 A. I do. Yes.</p> <p style="text-align: center;">63</p>
<p>1 BY MR. MENDEL: 2 Q. He hired CoinFund for that purpose, 3 correct? 4 MR. DEJARNETTE: Objection. 5 THE WITNESS: Again, I don't know 6 what were the business terms. I don't know 7 if they actually paid money or whatever it is 8 for this research. 9 BY MR. MENDEL: 10 Q. Fair enough. Do you have any 11 general reaction to Exhibit 6 after you skimmed 12 it? 13 A. Yes. That I am solely focused on 14 the Kik Messenger and this is noise for me. 15 Q. Was it educational at all for you? 16 A. Crypto and Blockchain in general I 17 think was a very new space for me. 18 So, it was a foreign world that I 19 started learning about this new technology. 20 So, from that perspective I would 21 say it was interesting. But, other than that, I 22 had serious doubts around, you know, the survey, 23 for example. As I have told you earlier on, I 24 come from a strong quantitative and qualitative 25 background and research background.</p> <p style="text-align: center;">62</p>	<p>1 Q. Do you recall reading that and 2 having a reaction one way or the other? 3 A. No, I don't recall reading this. 4 Q. Do you recall discussions with your 5 colleagues at Kik about the hotness of the 6 investment space for crypto? 7 MR. DEJARNETTE: Objection. 8 THE WITNESS: I do recall, and again 9 when I took on the Chief Product Officer role 10 and the discussions around crypto in general 11 with the executive team, I remember Ted being 12 very enthusiastic about this opportunity, to 13 actually realize something that he tried to 14 build for the previous eight and a half years 15 in undermining some monopolies in social 16 media and messaging space. 17 I definitely remember that. And I 18 also remember, because this was taking off, 19 you know, with all of these TDs and token 20 distribution events, that there may be a real 21 opportunity to change the world. I 22 definitely remember that. 23 BY MR. MENDEL: 24 Q. Do you remember colleagues talking 25 about the market in particular, though, for</p> <p style="text-align: center;">64</p>

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<p>1 digital tokens?</p> <p>2 A. I remember when --</p> <p>3 MR. DEJARNETTE: Objection.</p> <p>4 THE WITNESS: I remember when</p> <p>5 CoinFund and Cointree came in. I think they</p> <p>6 educated a lot of us on that.</p> <p>7 I am a very conservative in my</p> <p>8 approach. So when I see a new technology I'm</p> <p>9 usually very skeptical about the fruition of</p> <p>10 it to create good and valuable user</p> <p>11 experience.</p> <p>12 It takes years; it takes five to</p> <p>13 ten years until it comes to full fruition.</p> <p>14 So I was skeptical and I don't believe in,</p> <p>15 you know, easy money or any of those.</p> <p>16 So, or, you know, you can somehow,</p> <p>17 you know, Hail Mary, I don't believe in</p> <p>18 those. It has to do with grit and it takes</p> <p>19 time to build success.</p> <p>20 BY MR. MENDEL:</p> <p>21 Q. What did CoinFund say about the</p> <p>22 investment opportunity of digital tokens?</p> <p>23 A. I remember when we worked on the</p> <p>24 white paper they said there was a real</p> <p>25 opportunity for Kik, as a messenger app that is</p> <p style="text-align: center;">65</p>	<p>1 paper.</p> <p>2 I don't recall them speaking</p> <p>3 specifically about profits.</p> <p>4 BY MR. MENDEL:</p> <p>5 Q. Can you turn to Page 25? Do you see</p> <p>6 the section called User Versus Investor Interest?</p> <p>7 A. I do, yes.</p> <p>8 Q. And, it states, "In this survey we</p> <p>9 interviewed crypto investors and expected that</p> <p>10 most respondents would be interested in the</p> <p>11 investment side of the token proposition."</p> <p>12 Do you recall reading this paragraph?</p> <p>13 A. No.</p> <p>14 Q. Bullet 2 below states, "48.4 percent</p> <p>15 lean toward being investors only, with</p> <p>16 21.5 percent being speculators."</p> <p>17 Do you remember reading this</p> <p>18 portion?</p> <p>19 A. No.</p> <p>20 Q. No?</p> <p>21 A. No.</p> <p>22 Q. Do you remember --</p> <p>23 A. Just to clarify the question.</p> <p>24 Q. Go ahead.</p> <p>25 A. At the time, when we talk about</p> <p style="text-align: center;">67</p>
<p>1 well-known in this, you know, in software and in</p> <p>2 the space, to be the first one who is actually</p> <p>3 integrating a token into a ecosystem that has</p> <p>4 already millions of users.</p> <p>5 That is something new and something</p> <p>6 revolutionary because most of the previous TDs</p> <p>7 were by smaller tiny companies at that time.</p> <p>8 And, so, I definitely remember that.</p> <p>9 Also because this was a real</p> <p>10 monetary, financial whatever this is, this is a</p> <p>11 real opportunity not only to do this internally</p> <p>12 to the ecosystem but actually build an ecosystem</p> <p>13 outside Kik.</p> <p>14 And as a result there is a</p> <p>15 aspiration, I think that is where it really hit</p> <p>16 the mark with Ted, our CEO, that this has the</p> <p>17 opportunity to really change the monopolies out</p> <p>18 there.</p> <p>19 Q. What do you mean by TDs?</p> <p>20 A. Token distribution event.</p> <p>21 Q. But, did CoinFund talk about the</p> <p>22 profit opportunities for digital tokens?</p> <p>23 MR. DEJARNETTE: Objection.</p> <p>24 THE WITNESS: Again, I, I was in a</p> <p>25 big room hearing them talking about the white</p> <p style="text-align: center;">66</p>	<p>1 March 22nd, I don't recall reading this.</p> <p>2 As part of my preparation with my</p> <p>3 counsels yesterday --</p> <p>4 MR. DEJARNETTE: Don't get into the</p> <p>5 contents of any meetings with counsel.</p> <p>6 THE WITNESS: Okay, yes, okay.</p> <p>7 BY MR. MENDEL:</p> <p>8 Q. Do you, putting aside what you read</p> <p>9 on March 21st or 22nd after you got the</p> <p>10 deliverable --</p> <p>11 A. Yes.</p> <p>12 Q. Do you have any recollection of</p> <p>13 CoinFund talking about speculators being</p> <p>14 interested in digital, a digital token issued by</p> <p>15 Kik?</p> <p>16 MR. DEJARNETTE: Objection.</p> <p>17 THE WITNESS: I don't remember them</p> <p>18 talking about speculators specifically, no.</p> <p>19 BY MR. MENDEL:</p> <p>20 Q. Do you remember forming a view that</p> <p>21 speculators might be one group of people who are</p> <p>22 interested in buying a digital token issued by</p> <p>23 Kik?</p> <p>24 MR. DEJARNETTE: Objection.</p> <p>25 THE WITNESS: I remember that at the</p> <p style="text-align: center;">68</p>

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<p>1 time I thought there are probably three 2 possible groups that could be participating 3 in the TD. 4 The first group would be probably 5 what I term enthusiasts. People who really 6 bought into the vision of this is the first 7 company, a big, large scale company with 8 millions of users that can really transform 9 and change the world and make it more 10 egalitarian. 11 There is a second group which is, 12 and those can be app developers, they can be 13 engineers who want to integrate the Kin token 14 to their apps. 15 There is the second group, which is 16 the Kik user base. Some of them may be 17 interested in this as well, and there may be 18 also free riders, speculators, based on what 19 I have heard. 20 BY MR. MENDEL: 21 Q. And you have formed that view before 22 the TDE, is that what you called it? 23 A. Yes. 24 Q. And when you say there may be free 25 riders or speculators, what did you mean by that?</p> <p style="text-align: center;">69</p>	<p>1 THE VIDEOGRAPHER: The time is 2 10:20 a.m. and we are going off the record. 3 (Recess taken -- 10:20 a.m.) 4 (After recess -- 10:35 a.m.) 5 THE VIDEOGRAPHER: The time is 6 10:35 a.m. and we are back on the record. 7 BY MR. MENDEL: 8 Q. Back on the record. You mentioned 9 the phrase token distribution event. 10 A. Yes. 11 Q. Is that what you understood Kik plan 12 to do? 13 A. Yes. 14 Q. Okay. And, when was that decision 15 made? 16 A. I don't recall the exact date. 17 Q. Was it in the spring of 2017? 18 A. Yes. 19 Q. And, what was the name of the token 20 that was going to be subject to the token 21 distribution event? 22 MR. DEJARNETTE: Objection. 23 THE WITNESS: Kin. 24 BY MR. MENDEL: 25 Q. You can answer.</p> <p style="text-align: center;">71</p>
<p>1 A. That they are there to make a 2 profit. And that is it. They couldn't care less 3 about anything else. 4 MR. DEJARNETTE: Dave, we have been 5 going for over an hour, whenever you finish 6 up this questioning I think it makes sense 7 for a break, if that works for you. 8 THE WITNESS: I think it is an 9 important clarification. Again, I didn't 10 know who participated in the TD. This was 11 hypothetical. I thought some people may, 12 based on previous things that I heard in the 13 space. And I was new to the space. 14 But, I didn't know who actually 15 participated in the TD. I never had contact 16 with people who participated in the TD. 17 BY MR. MENDEL: 18 Q. In terms of the three groups who you 19 just identified of people who might participate 20 in the TDE, the Token Distribution Event. 21 A. Yes. 22 Q. That view was formed before the 23 event, correct? 24 A. That was the -- yes, yes. 25 MR. MENDEL: We can break.</p> <p style="text-align: center;">70</p>	<p>1 A. Kin, K-I-N. 2 Q. Okay. Earlier you testified about 3 conversations the board was having about runaway. 4 Correct? 5 A. Yes. 6 MR. DEJARNETTE: Objection. 7 BY MR. MENDEL: 8 Q. Was it your understanding that the 9 board considered the runaway for the company in 10 its discussions? 11 MR. DEJARNETTE: Objection. 12 BY MR. MENDEL: 13 Q. Let me rephrase. 14 Were you, was it your understanding 15 that the Board of Directors of Kik was focused on 16 how much runaway the company had? 17 MR. DEJARNETTE: Objection. 18 BY MR. MENDEL: 19 Q. I'm just asking for your 20 understanding. 21 A. I don't know what they focused on. 22 Q. Was it your understanding that the 23 board was aware of how much runaway it had left 24 for the company? 25 A. In general terms I think they were</p> <p style="text-align: center;">72</p>

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<p>1 aware, yes.</p> <p>2 Q. And your understanding was that they</p> <p>3 had runway for approximately a year?</p> <p>4 A. Yes.</p> <p>5 Q. And was one of the reasons for the</p> <p>6 token distribution event by Kik to extend the</p> <p>7 firm's runway?</p> <p>8 MR. DEJARNETTE: Objection.</p> <p>9 THE WITNESS: It could be. I don't</p> <p>10 know.</p> <p>11 BY MR. MENDEL:</p> <p>12 Q. You don't know if one of the reasons</p> <p>13 for the decision to do a token distribution event</p> <p>14 was to extend the firm's financial runway?</p> <p>15 A. I think, I think raising, doing the</p> <p>16 token distribution event would allow the company</p> <p>17 to continue to operate. Yes.</p> <p>18 Q. Continue to operate for a longer</p> <p>19 period of time, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And allowing the company to operate</p> <p>22 for a longer period of time, that was at least</p> <p>23 one of the reasons Kik decided to do a token</p> <p>24 distribution event, correct?</p> <p>25 MR. DEJARNETTE: Objection.</p> <p style="text-align: center;">73</p>	<p>1 A. Yes.</p> <p>2 Q. And Kik's counsel was present at the</p> <p>3 investigative testimony, correct?</p> <p>4 A. Correct, yes.</p> <p>5 Q. And you were under oath, correct?</p> <p>6 A. Yes.</p> <p>7 Q. So, if you turn to Page 39 of your</p> <p>8 investigative testimony.</p> <p>9 So, to provide context for your</p> <p>10 testimony, if you go up to Page 38 on Line 5, the</p> <p>11 question was "Going back to the management</p> <p>12 meeting that you first learned about the ICO, who</p> <p>13 was there?"</p> <p>14 And your answer follows, "The</p> <p>15 executive team." Correct? I'm not going to read</p> <p>16 it all but I'm just providing a frame of</p> <p>17 reference?</p> <p>18 A. 38?</p> <p>19 Q. Page 38, Line 5. Are you with me?</p> <p>20 A. There are four different lines of</p> <p>21 five. So, which one of the pages?</p> <p>22 Q. Do you see there is four boxes on a</p> <p>23 page.</p> <p>24 A. Yes.</p> <p>25 Q. And the upper left box there is a</p> <p style="text-align: center;">75</p>
<p>1 THE WITNESS: I don't know what, who</p> <p>2 Kik is, when, can you just please specify?</p> <p>3 BY MR. MENDEL:</p> <p>4 Q. That was one of the reasons -- sure.</p> <p>5 Allowing the company to operate for</p> <p>6 a longer period of time, that was at least one of</p> <p>7 the reasons Kik executives decided to do a token</p> <p>8 distribution event with Kin, correct?</p> <p>9 MR. DEJARNETTE: Objection.</p> <p>10 THE WITNESS: I don't think I, when</p> <p>11 you say executives made the decision, I don't</p> <p>12 think I was making that decision. I think</p> <p>13 that decision was made by Ted the CEO of the</p> <p>14 company and I think he may be able to answer</p> <p>15 that question.</p> <p>16 BY MR. MENDEL:</p> <p>17 Q. So, you recall your testimony in the</p> <p>18 case, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And, if you could pick up Exhibit 2</p> <p>21 this is, Exhibit 2 is your investigative testimony</p> <p>22 in the case.</p> <p>23 A. Yes.</p> <p>24 Q. And that was last October as we</p> <p>25 discussed, right?</p> <p style="text-align: center;">74</p>	<p>1 Page 38.</p> <p>2 A. Yes.</p> <p>3 MR. DEJARNETTE: Page 38. You are</p> <p>4 on -- he means --</p> <p>5 THE WITNESS: Sorry.</p> <p>6 BY MR. MENDEL:</p> <p>7 Q. My fault.</p> <p>8 MR. DEJARNETTE: He is on the wrong</p> <p>9 page.</p> <p>10 MR. MENDEL: Yes. So, let me. I'm</p> <p>11 looking at --</p> <p>12 THE WITNESS: Page 38 in the box,</p> <p>13 okay.</p> <p>14 BY MR. MENDEL:</p> <p>15 Q. Are you with me?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. So on Transcript Page 38,</p> <p>18 Line 5 you say it going back to the management</p> <p>19 meeting that you first learned about the ICO, who</p> <p>20 was there, and you stated, "Answer: The</p> <p>21 Executive team," and you listed the members.</p> <p>22 A. Yes, I can see that.</p> <p>23 Q. And the question on Line 14 is "Did</p> <p>24 you have a reaction?" And you answered, "Yes."</p> <p>25 And on Line 16 the question is "Tell me what your</p> <p style="text-align: center;">76</p>

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<p>1 reaction was."</p> <p>2 And, on 17 you state, "I think there</p> <p>3 was mixed feelings around it." And you are</p> <p>4 talking about the ICO, correct?</p> <p>5 A. Yes.</p> <p>6 Q. I'm working my way down to Page 39.</p> <p>7 Are you with me?</p> <p>8 A. Yes, I am with you.</p> <p>9 Q. And on Line 6, the question is:</p> <p>10 "Question: Did the idea of Kik's</p> <p>11 daily and monthly active user numbers declining</p> <p>12 come up during that meeting?</p> <p>13 "Answer: I don't remember?"</p> <p>14 MR. DEJARNETTE: Objection to</p> <p>15 reading his testimony into the record.</p> <p>16 BY MR. MENDEL:</p> <p>17 Q. On Line 10 of Page 39:</p> <p>18 "Question: Did the topic of Kik's</p> <p>19 financial state in early 2017 come up during that</p> <p>20 meeting?</p> <p>21 "Answer: Yes.</p> <p>22 "Question: Tell me about that.</p> <p>23 "Answer: I think there was a</p> <p>24 decrease or in the funds that the company had, I</p> <p>25 think we had enough runway for, as far as I could</p> <p style="text-align: center;">77</p>	<p>1 you have an initial reaction to that decision?</p> <p>2 A. Yes, as we just read, I think, I had</p> <p>3 mixed feelings of course.</p> <p>4 Q. Can you explain what you meant by</p> <p>5 that?</p> <p>6 A. As far as I remember, this was a new</p> <p>7 technology. And I didn't know much about</p> <p>8 Blockchain technology and crypto. So, I didn't</p> <p>9 know what that actually meant for us in the</p> <p>10 company.</p> <p>11 And I was laser focused on the Kik</p> <p>12 Messenger and growing its user base.</p> <p>13 And I think it may, at the time, I</p> <p>14 think I didn't know enough.</p> <p>15 So I think it may have been a risky</p> <p>16 path to go down.</p> <p>17 Q. When Kik made the decision to do a</p> <p>18 token distribution event, were you aware at the</p> <p>19 time what its plans were for how many tokens it</p> <p>20 would create?</p> <p>21 A. I don't recall. The number of</p> <p>22 tokens, I don't recall, no.</p> <p>23 Q. Did you have any recollection of the</p> <p>24 number of tokens that Kin planned to distribute?</p> <p>25 MR. DEJARNETTE: Objection.</p> <p style="text-align: center;">79</p>
<p>1 remember, for another full year.</p> <p>2 "So that was raised during the</p> <p>3 meeting.</p> <p>4 "Question: Was that raised in</p> <p>5 conjunction with the idea of doing an ICO to</p> <p>6 extend the runway by raising funds?</p> <p>7 "Answer: Yes, I think so. This was</p> <p>8 one of the reasons that this was raised, but it</p> <p>9 was only one out of a few."</p> <p>10 Did I read that correctly?</p> <p>11 A. Yes.</p> <p>12 Q. And you answered honestly at the</p> <p>13 time, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And you have no reason to doubt the</p> <p>16 accuracy of your testimony today. Correct?</p> <p>17 A. I do not have any reason to doubt</p> <p>18 that.</p> <p>19 Q. When the decision was made going</p> <p>20 back -- you can put that aside for the moment.</p> <p>21 A. Yes.</p> <p>22 Q. Thank you. When going back to the</p> <p>23 decision to, among Kik to do a token distribution</p> <p>24 event, when that decision was made some time in</p> <p>25 the spring of 2017, did you have a reaction? Did</p> <p style="text-align: center;">78</p>	<p>1 THE WITNESS: I don't recall that.</p> <p>2 BY MR. MENDEL:</p> <p>3 Q. You don't have any recollection of</p> <p>4 knowing at the time in the spring of 2017 at the</p> <p>5 time of the decision?</p> <p>6 A. Can you please clarify the second</p> <p>7 question again?</p> <p>8 Q. In the spring of 2017 --</p> <p>9 A. Yes.</p> <p>10 Q. When, at the time when Kik decided</p> <p>11 to do a token distribution event involving Kin,</p> <p>12 did you know how many Kin Kik planned to</p> <p>13 distribute?</p> <p>14 MR. DEJARNETTE: Objection, he</p> <p>15 already answered the question.</p> <p>16 THE WITNESS: Distribute in the</p> <p>17 token distribution event?</p> <p>18 BY MR. MENDEL:</p> <p>19 Q. Correct.</p> <p>20 A. The volume or the number of tokens?</p> <p>21 Q. Correct.</p> <p>22 A. I don't think I knew. I don't</p> <p>23 remember.</p> <p>24 (Exhibit Number 7</p> <p>25 marked for identification.)</p> <p style="text-align: center;">80</p>

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<p>1 BY MR. MENDEL: 2 Q. I have given you what has been 3 marked as Exhibit 7. 4 A. Yes. 5 Q. Do you have it? On the front it 6 says Board Call May 23, 2017. Do you see that? 7 A. I do. 8 Q. And in the lower right corner it has 9 the Bates Number Kik_00106868. And it goes to 10 the back at Kik_00106898. 11 What does this appear to be? 12 A. It appears to be a presentation. 13 Q. A presentation for the Kik Board of 14 Directors? 15 A. I don't know, could be. 16 Q. Do you recognize it as something you 17 have seen previously? 18 A. Can I look through it? 19 Q. Yes, take your time. Take a look. 20 A. So I recognize some of the slides 21 here. But I don't recognize the entire 22 presentation end to end. 23 Q. Which slides do you recognize? 24 A. If you flip down to Bates 00106871. 25 Q. Yes.</p> <p style="text-align: center;">81</p>	<p>1 Q. On 6871. 2 A. Yes. 3 Q. And my question is how far in this 4 Exhibit 7 does that sit down update go? 5 MR. DEJARNETTE: Objection. 6 THE WITNESS: I don't recall the sit 7 down. I just, I recall some of the slides 8 here. So, I'm not even sure that they were 9 taken end to end and placed in this 10 presentation. 11 I remember as I said earlier, 12 00106871, also 00106873. 13 BY MR. MENDEL: 14 Q. Okay. What do you remember from the 15 sit down update. Just from the update, putting 16 aside the exhibit. What happened? 17 MR. DEJARNETTE: Objection. 18 THE WITNESS: It is quite blurry in 19 my mind. But I think it was a sit down where 20 we presented this to the team. 21 BY MR. MENDEL: 22 Q. Who is we and which team? 23 A. We is Ted Livingston, the CEO, 24 myself, and I don't remember if anyone else 25 presented there or not.</p> <p style="text-align: center;">83</p>
<p>1 A. You will see that in the Comments 2 there is thanks Eran and team. And I think this 3 was taken out of a sit down presentation. Sit 4 down is the company meetings that we used to 5 have. 6 Q. Okay. 7 A. So, I think this was something that 8 we presented to the team and was taken out of 9 that. So, I recognize this slide. 10 But, other than that I don't 11 recognize the other slides. And on 00106873, I 12 remember the icons of identity safe, people, 13 health, experience, bot platform, crypto. 14 Q. Flipping through Exhibit 7 it looks 15 like the update on crypto as part of the sit 16 down. 17 Just by the appearance of the pages, 18 it seems to me that it goes through at least the 19 Bates Numbers ending in 00106884. Does that look 20 right to you? 21 A. Can you again clarify the question? 22 Q. Well, you said that there seemed to 23 be excerpts of an update on crypto sit down. 24 Right? 25 A. Yes.</p> <p style="text-align: center;">82</p>	<p>1 And I think it was a presentation 2 talking about the Kik Messenger and also talking 3 about the possibility of going down the path of a 4 token distribution event. And how the two 5 actually will reinforce each other. 6 How the token distribution event 7 will reinforce whatever we are doing in the Kik 8 Messenger in building the ecosystem. 9 Q. Who did you give the presentation 10 to? 11 A. The team, I think as far as I 12 recall, I was in Waterloo, in front of the team 13 in Waterloo. 14 But, I think other teams, other 15 offices Zoomed in. In video. 16 Q. At this time had you moved to 17 Canada? 18 A. No. 19 Q. You were still travelling back and 20 forth? 21 A. Yes. 22 Q. Can you turn to Page 23 of 23 Exhibit 7? And that is, actually turn to 24 Page 25, excuse me, and that is Kik_00106892. 25 A. Yes.</p> <p style="text-align: center;">84</p>

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<p>1 Q. There is a slide that says Sales 2 Process, Total Raised Target 100 million. Do you 3 see that? 4 A. I do, yes. 5 Q. Is that consistent with your 6 understanding of how much Kik the company was 7 hoping to raise through its token distribution 8 event? 9 MR. DEJARNETTE: Objection. 10 BY MR. MENDEL: 11 Q. You can answer. 12 A. If you are asking about the Total 13 Raised Target of 100 million, this is what I do 14 recall. Everything else I do not remember. 15 Q. And you had that understanding at 16 the time of the sit down in May of 2017, right? 17 A. I don't recall that. 18 Again, I don't think this was, I'm 19 not, I don't remember if this was presented to 20 the team. 21 Q. Okay. Fair enough. But what I'm 22 trying to understand is, what you understood, at 23 the time, in terms of what Kik intended to raise 24 through its token distribution event. 25 A. I don't --</p> <p style="text-align: center;">85</p>	<p>1 THE WITNESS: So, yes, I do remember 2 this was more or less the target, yes. 3 BY MR. MENDEL: 4 Q. And was that discussed within the 5 company? 6 MR. DEJARNETTE: Objection. 7 THE WITNESS: I don't recall. 8 BY MR. MENDEL: 9 Q. Looking at Page 25 of Exhibit 7 10 again. Under Total Raised Target of 100 million 11 it says, "presale up to 50 million and token 12 distribution event below that 50 to 75 million." 13 Do you see those? 14 A. I do. 15 Q. Do you know what those numbers 16 meant? 17 A. No. 18 Q. You just understood that the total 19 raise was 100 million, correct? 20 A. Correct. 21 Q. Did you ever talk about Kik raising 22 portions of \$100 million? 23 MR. DEJARNETTE: Objection. 24 THE WITNESS: I vaguely remember 25 Peter, the CFO, talking about that.</p> <p style="text-align: center;">87</p>
<p>1 MR. DEJARNETTE: Objection as to 2 what time frame we are talking about. 3 THE WITNESS: I don't remember what 4 I knew back then. I really don't remember. 5 BY MR. MENDEL: 6 Q. Did you then at some point before 7 the token distribution event and do you recall 8 when that occurred? 9 MR. DEJARNETTE: Objection. 10 THE WITNESS: What occurred? 11 BY MR. MENDEL: 12 Q. The token distribution event. 13 MR. DEJARNETTE: Objection. 14 THE WITNESS: I think the token -- 15 (Reporter requests clarification.) 16 BY MR. MENDEL: 17 Q. Do you recall, Mr. Ben-Ari, when 18 Kik's token distribution event of Kin occurred? 19 A. I think it occurred towards the end 20 of September of 2017. 21 Q. And do you, did you have an 22 understanding before the token distribution event 23 in September of 2017 that Kik hoped to raise 24 approximately \$100 million through the event? 25 MR. DEJARNETTE: Objection.</p> <p style="text-align: center;">86</p>	<p>1 Again, I invested so little time in 2 everything relating to the crypto at that 3 time. And I'm not a numbers guy, so -- I'm 4 not a financial person. 5 BY MR. MENDEL: 6 Q. Okay. When you talked about the 7 amount of money, or -- never mind. 8 You understood others at Kik to be 9 discussing a total raise of \$100 million, 10 correct? 11 MR. DEJARNETTE: Objection. 12 THE WITNESS: I remember the number 13 was raised. But, I don't remember exactly 14 who said what to whom. 15 BY MR. MENDEL: 16 Q. Did you have an understanding of how 17 Kik would -- 18 MR. DEJARNETTE: The number was 19 raised as in brought up? 20 THE WITNESS: Yes, it was brought 21 up, yes. 22 BY MR. MENDEL: 23 Q. Were other numbers brought up, as 24 far as you could tell? 25 A. Yes. Now, actually I recall</p> <p style="text-align: center;">88</p>

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1 something that the 100 million was actually part
2 of the conservative approach that the company
3 took.

4 So, I remember now that I recall, I
5 remember Peter saying that we should limit
6 ourselves to 100 million and not go beyond that.

7 The reasons I don't remember what.

8 **Q.** Do you have an understanding of how
9 Kik intended to use the proceeds from its sale of
10 Kin?

11 **A.** At the high level, yes.

12 **Q.** What, what was your understanding?

13 **A.** So, I think there was the Kin

14 Rewards Engine that was one component of it.

15 And there is the foundation that
16 should run that.

17 There is the second component of the
18 operational costs of the Kik Messenger
19 integrating Kin into Kik. And also operational
20 costs, I think, in building the ecosystem outside
21 of Kik.

22 That is what I recall.

23 **Q.** And what was the Kin Rewards Engine?

24 **A.** It was an incentive for external
25 parties to take on and integrate Kin into their

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1 MR. DEJARNETTE: Let him finish his
2 question.

3 THE WITNESS: Sorry.

4 BY MR. MENDEL:

5 **Q.** Kik would use the funds from the
6 token distribution event to continue its
7 objective of integrating Kin into Kik Messenger.

8 **A.** Yes. And outside Kik Messenger.

9 **Q.** Did you have any understanding of
10 what SAFTs were?

11 **A.** No.

12 **Q.** Have you heard the term SAFT?

13 **A.** I did hear the term from Peter, the
14 CFO. And I remember we had to review the SAFT in
15 another document which I don't remember the name.

16 And something memorandum. But,
17 other than that, I don't know what a SAFT means.

18 **Q.** It is an acronym, right?

19 **A.** Yes.

20 **Q.** Do you know what the long word is?

21 **A.** No.

22 **Q.** Does Simple Agreement For Future
23 Tokens sound right to you?

24 **A.** It could be.

25 **Q.** Did you understand that some of the

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1 apps or wherever they are using it.

2 I think it is a matching. So, when
3 you integrate Kin or participate in the TD,
4 integrate that into your own app, then that can
5 reward you with additional Kin in return.

6 But, I don't remember all of the
7 details.

8 **Q.** And, Kik intended to use the
9 proceeds of its token distribution event to
10 develop the Kin Rewards Engine after the
11 distribution of the Kin, correct?

12 MR. DEJARNETTE: Objection.

13 THE WITNESS: I think so, yes.

14 BY MR. MENDEL:

15 **Q.** And the same for integrating Kin
16 into the Kik Messenger. Kik intended to use the
17 proceeds of the token distribution event to
18 accomplish that, correct?

19 MR. DEJARNETTE: Objection.

20 THE WITNESS: To continue to do
21 that. What was already in motion as part of
22 the MVP and IPO.

23 BY MR. MENDEL:

24 **Q.** Kik would continue to advance that
25 objective using the funds from the --

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1 money that Kik was raising as part of the 100
2 million was through SAFTs?

3 MR. DEJARNETTE: Objection.

4 THE WITNESS: Vaguely I remember.

5 Again, this is not my domain of expertise.

6 BY MR. MENDEL:

7 **Q.** Did you have any understanding that
8 money obtained through the SAFTs would be spent
9 any differently than money obtained by Kik
10 through the token distribution event?

11 **A.** No.

12 MR. DEJARNETTE: Objection. He has
13 testified he doesn't know what SAFTs are.

14 MR. MENDEL: Counsel, please don't
15 testify.

16 BY MR. MENDEL:

17 **Q.** Did Kik eventually make a public
18 announcement of its intention to do a token
19 distribution event?

20 **A.** Yes.

21 **Q.** Do you remember when that public
22 announcement was?

23 **A.** No.

24 **Q.** Does May 2017 sound right to you?

25 **A.** I think it was either May or June.

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<p>1 I don't recall exact date.</p> <p>2 Q. Okay. I can represent to you, and I</p> <p>3 think everyone considers it undisputed that it</p> <p>4 was on May 25th, 2017.</p> <p>5 A. Okay. Then yes.</p> <p>6 Q. And you have testified that the</p> <p>7 token distribution event occurred in</p> <p>8 September 2017?</p> <p>9 A. Yes.</p> <p>10 Q. So, after Kik decided to go forward</p> <p>11 with the token distribution event, did your</p> <p>12 responsibilities change at all at Kik as Chief</p> <p>13 Product Officer?</p> <p>14 A. Can you please specify the time</p> <p>15 frame you are referring to?</p> <p>16 Q. Yes. So, before the public</p> <p>17 announcement in May, May of 2017, Kik had decided</p> <p>18 to move forward with Kin, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And so my question is at the time</p> <p>21 that Kin decided, at the time that Kik decided to</p> <p>22 move forward with Kin, before the public</p> <p>23 announcement, did your responsibilities as Chief</p> <p>24 Product Officer change?</p> <p>25 A. So, I was responsible to drive the</p> <p style="text-align: center;">93</p>	<p>1 Why were there two separate ones?</p> <p>2 A. Because it has to do more with the</p> <p>3 nature of product development and you always</p> <p>4 build things in a gradual manner.</p> <p>5 So, we were thinking about what is</p> <p>6 sufficient, and I can't get into that because</p> <p>7 that is attorney/client privilege --</p> <p>8 MR. DEJARNETTE: Please don't.</p> <p>9 THE WITNESS: What is sufficient to</p> <p>10 actually launch in terms of functionality for</p> <p>11 the token distribution event.</p> <p>12 But, also we were already planning</p> <p>13 very quickly to iterate on it and expand on</p> <p>14 that functionality with a very clear time</p> <p>15 frame, 90 days post TD completion.</p> <p>16 BY MR. MENDEL:</p> <p>17 Q. So, your determination of what was</p> <p>18 sufficient for the IPL was guided by advice from</p> <p>19 attorneys?</p> <p>20 A. They were part of the discussions,</p> <p>21 yes.</p> <p>22 Q. What was part of the discussions?</p> <p>23 A. Attorneys were part of the</p> <p>24 discussions around defining the scope for IPL V1.</p> <p>25 Q. And that guided your team's</p> <p style="text-align: center;">95</p>
<p>1 IPL V1 which was the Initial Product Launch</p> <p>2 Version 1. And I was also involved in defining</p> <p>3 IPL V2. So that is Initial Product Launch</p> <p>4 Version 2 which was supposed to go live 90 days</p> <p>5 after the end of the token distribution event.</p> <p>6 There was a clear division of labor</p> <p>7 within the executive team, Erin Clift, the Chief</p> <p>8 Marketing Officer was responsible, together of</p> <p>9 course with Ted and Peter, to drive towards the</p> <p>10 successful TD and its completion.</p> <p>11 And the intention at that time was</p> <p>12 that afterwards I would lead the strategic</p> <p>13 discussions around how we build functionality</p> <p>14 within Kik and outside Kik.</p> <p>15 Q. But, the immediate task in the</p> <p>16 spring of 2017 was the IPL and IPL V2?</p> <p>17 A. Yes.</p> <p>18 Q. And IPL stands for what?</p> <p>19 A. Initial Product Launch.</p> <p>20 Q. Have you also heard the phrase</p> <p>21 Minimum Viable Product or MVP?</p> <p>22 A. Yes.</p> <p>23 Q. Are they the same?</p> <p>24 A. In this respect, yes.</p> <p>25 Q. Why was there an IPL and an IPL V2?</p> <p style="text-align: center;">94</p>	<p>1 development of the IPL, correct?</p> <p>2 A. Part of it, yes.</p> <p>3 Q. And what you determined to be</p> <p>4 sufficient?</p> <p>5 A. Yes.</p> <p>6 Q. Was there anything else that guided</p> <p>7 your assessment of what was sufficient for the</p> <p>8 IPL?</p> <p>9 A. Yes. So, and then again I think I</p> <p>10 testified around this last time, or a year ago in</p> <p>11 October 2018.</p> <p>12 I was opposed to launch any</p> <p>13 functionality within, as part of the TD.</p> <p>14 Once that decision was made I, and</p> <p>15 after a discussion with some other execs, it</p> <p>16 became, I basically changed my mind and I</p> <p>17 understood that there was a lot of merit in</p> <p>18 launching something very early on to generate a</p> <p>19 lot of earnings and create real value from day</p> <p>20 one.</p> <p>21 And so I think that is the story.</p> <p>22 Q. Is it fair to say that the IPL V2</p> <p>23 was going to be more advanced functionality than</p> <p>24 IPL?</p> <p>25 MR. DEJARNETTE: Objection.</p> <p style="text-align: center;">96</p>

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<p>1 THE WITNESS: Can you define what 2 advanced means to you? 3 BY MR. MENDEL: 4 Q. Was the IPL V2 intended to have 5 additional functionality? 6 MR. DEJARNETTE: Objection. 7 THE WITNESS: Additional 8 functionality, yes. 9 BY MR. MENDEL: 10 Q. So, going back to your initial 11 opinion on whether an IPL should be included at 12 launch, why did you, and, is it okay with you if 13 instead of IPL I use the phrase MVP? 14 A. Yes. 15 Q. They are synonymous to you, correct? 16 A. In this case, yes. 17 Q. And MVP is Minimum Viable Product, 18 right? 19 A. Yes. 20 Q. Okay. So, why initially did you 21 have the view that an MVP should not be included 22 when Kin was launched? 23 MR. DEJARNETTE: Objection. 24 BY MR. MENDEL: 25 Q. Is that, I just want to make sure.</p> <p>97</p>	<p>1 wait. Needs to wait for 20 or 30 seconds. 2 Because we didn't know what were the 3 implications, and introducing this at scale where 4 the infrastructure did not actually support 5 millions of users at that time, I had concerns. 6 And I said we need to approach this after we do 7 the proper technological research. 8 That is on the one hand. 9 On the other hand, we also wanted to 10 make sure that the use cases of where this 11 actually creates additional new, net new value 12 for Kik users has to be satisfied as well. 13 And as a result, I said look, for my 14 point of view, and I was a minority I think, I 15 would much rather not launch this as part of the 16 TD. After we seek counsel we decided -- 17 MR. DEJARNETTE: Don't, don't get 18 into communications with counsel. 19 BY MR. MENDEL: 20 Q. I'm not asking you -- 21 A. Yes. 22 Q. -- to divulge your communications 23 with counsel. 24 But, going along with chronology, 25 you changed your mind, correct?</p> <p>99</p>
<p>1 I'm not trying to mischaracterize your testimony. 2 Is it fair that your initial opinion 3 was that an MVP should not be included when Kin 4 was initially launched? 5 A. I wanted to separate between the TD 6 and launching functionality within Kik. 7 And the reason for that is that as I 8 have said earlier, I am a strong believer in 9 evidence based decision-making. 10 And I feared that if you introduce 11 some sort of Kin to Kik users without really 12 understanding how that would actually resonate 13 with them, that could be a very big risk. 14 At that time, the technology for 15 example, just to give one small example and how 16 would that have an impact on user experience, 17 Blockchain infrastructure had latency issues. 18 Latency issues would mean that you had to wait 19 for a long time until you get the full circuit of 20 response. 21 So, imagine that a Kik user would 22 want to use some functionality within the app, 23 and instead of that being instantaneous, because 24 it is linked in some way or another to the 25 Blockchain infrastructure, that person needs to</p> <p>98</p>	<p>1 A. Yes. The decision was made. 2 Q. And, you changed your mind 3 subsequent to communications with counsel. 4 Correct? 5 A. No, and I will explain why. 6 Q. Okay, please. 7 A. So, once the decision was made with 8 counsel involved in that, I had a conversation, 9 and I remember that quite clearly with Dany 10 Fishel, Kik's Israel president, who actually 11 showed me that there was a lot of merit in 12 launching this, and I'm not talking about the 13 compliance prospective. 14 From a product perspective there is 15 a lot of merits. Because we can generate very 16 early on really important learnings that can 17 speed up the ability to integrate Kin 18 successfully into Kik and other apps as well. 19 Q. Do you recall when that conversation 20 with Mr. Fishel took place? 21 A. I do recall having a conversation 22 with Dany Fishel, yes. 23 Q. When? 24 A. I don't remember the exact date. 25 Q. Going back to your concerns about</p> <p>100</p>

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1 the technology, and I think it is basically a
2 latency issue, was one of the issues you
3 identified, correct?
4 **A.** That is an example, yes.
5 **Q.** It was one problem among several?
6 **MR. DEJARNETTE:** Objection.
7 **BY MR. MENDEL:**
8 **Q.** With the technology Kik was going to
9 use to launch Kin?
10 **MR. DEJARNETTE:** Objection.
11 **THE WITNESS:** Again I'm not a
12 technical person. This was one of the things
13 that were surfaced that we needed to research
14 further down to understand whether or not
15 this actually is going to create issues for
16 Kik users.
17 **BY MR. MENDEL:**
18 **Q.** Are you familiar with the ERC 20
19 token?
20 **A.** I think that was a standard that we
21 were using in terms of the infrastructure.
22 **Q.** And was the latency issue related to
23 that ERC 20 token?
24 **A.** I think it was discussed in the
25 relation to the ERC 20.

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1 **Q.** Were you aware at the time of
2 planning the MVP that Kik intended to seek an
3 alternative Blockchain solution for its product?
4 **A.** I think, I think at the time, and
5 again, the IPL, we are working on that so it is
6 not a one-time effort. It was ongoing.
7 And that is why also the scope of
8 IPL change over time.
9 There was a parallel discussion
10 around infrastructure. Especially with Cointree.
11 **Q.** Infrastructure meaning the type of
12 Blockchain?
13 **A.** Yes.
14 **Q.** And those discussions were occurring
15 at the same time that you were discussing, that
16 you were developing the IP, the first IPL,
17 correct?
18 **A.** IPL Version 1, yes.
19 **Q.** Yes. So, it is fair to say that
20 before the token distribution event, Kik was
21 already thinking about future Blockchain
22 solutions. Correct?
23 **MR. DEJARNETTE:** Objection.
24 **THE WITNESS:** I think so, yes, I
25 think that is fair to assume, yes.

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1 **BY MR. MENDEL:**
2 **Q.** And, before the token distribution
3 event, Kik intended to devote resources to
4 further developing Blockchain solutions, correct?
5 **MR. DEJARNETTE:** Objection.
6 **THE WITNESS:** I don't know what Ted
7 had in mind or what Dave had in mind.
8 **BY MR. MENDEL:**
9 **Q.** Dave, Dave Simons?
10 **A.** Yes.
11 **Q.** Who ultimately decided to include an
12 MVP or what you initially called an IPL into the
13 launch of Kin?
14 **MR. DEJARNETTE:** Objection.
15 **THE WITNESS:** I think Ted Livingston.
16 **BY MR. MENDEL:**
17 **Q.** And again, I'm not sure if I asked
18 this specifically, but, why was a decision made
19 to include an MVP at the launch of Kin?
20 **MR. DEJARNETTE:** Objection. And I
21 caution you not to get into communications
22 with counsel.
23 **THE WITNESS:** I think I can't get
24 into that. It is based on the discussion
25 that we had with counsel at the beginning.

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1 And then also I think there was merits in
2 itself, that has to do with compliance.
3 **BY MR. MENDEL:**
4 **Q.** So, part of the reason was
5 compliance based on conversations with counsel?
6 **A.** Yes.
7 **Q.** You described your initial concerns
8 about including an MVP at the time of launch.
9 Did you express your opinions to
10 others?
11 **A.** Yes.
12 **Q.** And you were overruled?
13 **A.** Yes.
14 **Q.** So, going to what the MVP actually
15 was, can you describe it at a high level?
16 **A.** I think IPL V1 included badger
17 stickers; I don't remember the number of them.
18 It included anywhere between 10 and 15 different
19 tiers and each tier would unlock a specific set
20 of stickers. It would be able to link your
21 external crypto wallet into a web view within the
22 Kik app and see your Kin balance.
23 I think that is the scope of IPL V1.
24 **Q.** Okay. So, I just want to try to
25 summarize that a little bit.

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<p>1 So, one thing was that Kin 2 purchasers would be able to link their digital 3 wallet to their Kik accounts; is that right? 4 A. Yes. 5 Q. Okay. And, by linking their wallet 6 to their Kik account, they could display their 7 Kin balance? 8 A. Yes. 9 Q. Okay. And then they would, the 10 users, the Kin users would be able to access the 11 stickers by accessing their Kin balance. Do I 12 have that roughly correct? 13 A. The Kin balance would then open up 14 access to a specific set of stickers that would 15 correspond to how much Kin that you have in your 16 wallet. 17 Q. So, the stickers were a reflection 18 of the Kin balance? 19 A. Yes. 20 Q. Anything else? 21 A. Not that I recall offhand, no. 22 Q. Did the, the minimum viable product, 23 that did not apply to people who did not have Kik 24 Messenger accounts, correct? 25 MR. DEJARNETTE: Objection.</p> <p style="text-align: center;">105</p>	<p>1 The IPL-1. 2 A. Yes. 3 Q. Isn't it true that the IPL had no 4 relevance whatsoever for a Kin holder that didn't 5 also have a Kik Messenger account? 6 MR. DEJARNETTE: Objection. 7 THE WITNESS: You had to have a Kik 8 Messenger in order to access the stickers. 9 If that is the question, then the answer is 10 yes. 11 BY MR. MENDEL: 12 Q. And the to access the stickers was 13 the minimum viable product, correct? 14 MR. DEJARNETTE: Objection. 15 THE WITNESS: It was part of the 16 minimum viable product, yes. 17 BY MR. MENDEL: 18 Q. So, you will agree then that unless 19 you had a Kik Messenger account, there was no 20 minimum viable product for a Kin holder? 21 MR. DEJARNETTE: Objection. 22 THE WITNESS: Again I don't know 23 these users. So I don't know what else could 24 be available to them. 25 It is a decentralized token, right.</p> <p style="text-align: center;">107</p>
<p>1 THE WITNESS: Let me think about 2 that question. 3 Can you clarify that question? 4 Because I'm not sure I understand that. 5 BY MR. MENDEL: 6 Q. What relevance would the minimum 7 viable product have to a Kin user or a Kin 8 holder, Kin token holder who did not have a Kik 9 Messenger account? 10 MR. DEJARNETTE: Objection. 11 THE WITNESS: I don't know; I don't 12 know them. 13 BY MR. MENDEL: 14 Q. It wouldn't have any, right? 15 Because in order to take advantage of the 16 product, you would have to have a Messenger 17 account to access your wallet, correct? 18 MR. DEJARNETTE: Objection. 19 THE WITNESS: Having access to Kin 20 and you could do a bunch of other things with 21 Kin. You could integrate Kin into your app. 22 That can be also value. 23 BY MR. MENDEL: 24 Q. Understood. But I'm talking about 25 the minimum viable product that you worked on.</p> <p style="text-align: center;">106</p>	<p>1 I don't know what else. 2 BY MR. MENDEL: 3 Q. I'm not asking about other uses of 4 Kin. 5 A. Okay. 6 Q. That is not my question. I'm 7 focused on the IPL that you developed. 8 You can't think of any way that a 9 Kin holder would use the IPL if they didn't have 10 a Kik Messenger account, right? 11 MR. DEJARNETTE: Objection. 12 THE WITNESS: Right. 13 (Exhibit Number 8 14 marked for identification.) 15 (Exhibit Number 9 16 marked for identification.) 17 BY MR. MENDEL: 18 Q. I have given you what has been marked 19 Deposition Exhibit 8 and 9. Number 8 is marked 20 by the Bates, it is just a one-page exhibit 21 marked by the Bates Number Kik 001098, and then 22 Exhibit 9 is marked by the Bates Number 23 Kik 001092. 24 What are these? What are Exhibits 8 25 and 9, do you know?</p> <p style="text-align: center;">108</p>

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<p>1 A. I think they represent the badger 2 stickers, some of the badger stickers. 3 Q. Okay. These are examples of the 4 badger stickers that were included in the MVP? 5 A. Yes. 6 Q. And, did you make these? 7 A. No. 8 Q. Who made them. Do you know? 9 A. I think Philip Yang worked with an 10 artist to create them. 11 Q. And you reviewed them when you 12 worked as the Chief Product Officer, right? 13 A. Actually it was Philip Yang was part 14 of I think content or partnership team reported 15 to marketing. 16 So, this was more of a marketing 17 decision to go down the path. 18 And I remember reviewing them and I 19 said if marketing is fine, I'm fine with this as 20 well. 21 Q. Okay. You can give those back. And 22 I will take your other exhibits except your 23 transcript. 24 A. Okay. Thank you. 25 (Exhibit Number 10</p> <p>109</p>	<p>1 states, "The MVP has an objective to satisfy 2 compliance requirements." 3 A. Uh-huh. 4 Q. And that was true when you wrote it, 5 correct? 6 A. Yes. 7 Q. And that goes to the conversations 8 with the lawyers. We are not going to go into 9 the substance of-- 10 A. Yes. 11 Q. But which you alluded to, correct? 12 A. Yes. 13 Q. And then following that, an e-mail 14 from you on May 17th there is e-mail 15 correspondence on the same page between Ted 16 Livingston who is Kik's CEO, right, and someone 17 named Jairaj, correct? 18 A. Yes. 19 Q. And that is spelled J-A-I-R-A-J. 20 A. Yes. 21 Q. And that correspondence happens over 22 the course of the day on May 18th. Do I have 23 that right? 24 A. Yes. 25 Q. And who is Jairaj?</p> <p>111</p>
<p>1 marked for identification.) 2 BY MR. MENDEL: 3 Q. Mr. Ben-Ari, I have given you what 4 has been marked as Exhibit 10. 5 A. Uh-huh. 6 Q. And previously Investigative 7 Exhibit 114 it is an e-mail chain Bates Number 8 Kik_00103093 to Kik_00103097. 9 At the top of an e-mail chain on 10 Page 1, it is from you Ben, Eran Ben-Ari to Ted 11 Livingston with a cc: to Others. That is on 12 May 18, 2017. Right? 13 A. Uh-huh. 14 Q. But, I want to start earlier in the 15 e-mail chain. 16 So, let's go to Page 2 of the 17 exhibit which is marked by Bates Number ending 18 in 094. Are you there? 19 A. Yes. 20 Q. And you will see an embedded e-mail 21 in the chain. On Wednesday, May 17th, 2017, at 22 5:33 p.m., from you, starting with "Hi all." 23 Do you see that? 24 A. Yes. 25 Q. And then the second paragraph</p> <p>110</p>	<p>1 A. Jairaj is an engineer. 2 Q. What are they discussing in these 3 e-mails? 4 MR. DEJARNETTE: Objection. 5 THE WITNESS: Can I read through it? 6 BY MR. MENDEL: 7 Q. Absolutely. You can read through 8 it. 9 MR. DEJARNETTE: While he is reading 10 this, I will take care of some logistical 11 matters. 12 Kik reserves the right to designate 13 this transcript as confidential and also to 14 submit an errata. 15 THE WITNESS: Okay. I have read 16 this. 17 MR. MENDEL: What do you mean by an 18 errata, counsel? 19 MR. DEJARNETTE: Any typographical 20 corrections to the transcript that the 21 witness may identify. 22 MR. MENDEL: Are you just reserving 23 the right to read the transcript? 24 MR. DEJARNETTE: And to submit an 25 errata.</p> <p>112</p>

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<p>1 BY MR. MENDEL: 2 Q. Are you ready Mr. Ben-Ari? 3 A. Yes. Can you repeat the question, 4 please? 5 Q. What are Mr. Livingston and Jairaj 6 discussing, following your initial e-mail on 7 May 17th? 8 A. I think they are discussing the 9 implementation of part of the IPL of the sticker 10 flow. 11 Q. They are discussing two different 12 options, correct? 13 A. Yes. 14 Q. One option that is being discussed 15 is simply to enable Kik Messenger users to take a 16 screen shot of how much Kin they own, right? 17 MR. DEJARNETTE: Objection. The 18 document speaks for itself. 19 BY MR. MENDEL: 20 Q. You can answer. 21 A. Okay, I didn't read that, but -- 22 Q. So, I can guide you through a little 23 bit better. 24 A. Yes. 25 Q. Directly above your e-mail on</p> <p style="text-align: center;">113</p>	<p>1 Do I have that right? 2 MR. DEJARNETTE: Objection. 3 THE WITNESS: It appears so. I 4 don't remember the screen shot one. I only 5 remember the stickers one, but ... 6 BY MR. MENDEL: 7 Q. And then there is a question about 8 how long they each would take. Correct? 9 A. Yes. 10 Q. And, stickers would require four 11 days plus time to get premium content. 12 That is in Jairaj's e-mail at, sent 13 at 12:00 a.m. on May 18th, right? 14 MR. DEJARNETTE: Objection. 15 THE WITNESS: That is Jairaj's 16 estimation, yes. 17 BY MR. MENDEL: 18 Q. You didn't have any reason to doubt 19 that, right? 20 MR. DEJARNETTE: Objection. 21 THE WITNESS: To doubt the 22 estimation? 23 BY MR. MENDEL: 24 Q. Yes. 25 A. I don't have any doubt, any doubt of</p> <p style="text-align: center;">115</p>
<p>1 Page 2, May 18th, 2017. 2 A. I can see that, yes. 3 Q. You see that? Mr. Livingston 4 writes, "Kin token users will be able to screen 5 shot their balance and send it to other non-token 6 users." 7 That was one idea being discussed 8 between Mr. Livingston and Jairaj, right? 9 A. It appears so, yes. 10 Q. And then, another idea being 11 discussed is access to stickers, right? 12 A. Yes. 13 Q. That would reflect the Kin balance? 14 A. Yes. 15 MR. DEJARNETTE: Objection, the 16 document speaks for itself. 17 BY MR. MENDEL: 18 Q. I just want to understand the 19 dialogue occurring amongst, between you and 20 Mr. Livingston and Jairaj about the options for 21 developing the IPL. 22 And, as I read this e-mail there is 23 two different options being discussed. The 24 screen shot for Kin balance and access to 25 stickers.</p> <p style="text-align: center;">114</p>	<p>1 what he is saying it is going to take him. But, 2 I think it is important to note that Jairaj was a 3 hacker. 4 Q. A hacker meaning what? 5 A. Meaning that he would just run 6 through and, you know, hack the system to get 7 things launched. 8 Q. And is that how he developed the 9 MVP? 10 MR. DEJARNETTE: Objection. 11 THE WITNESS: That is why the 12 beginning he developed it and then it was 13 transferred to the Tel Aviv office to 14 actually build it properly and that is why we 15 also needed to rebuild it after we did the 16 TDE. 17 BY MR. MENDEL: 18 Q. So, it was transferred after the 19 TDE, correct? 20 A. It was transferred before the TDE 21 from Jairaj to the Tel Aviv office. 22 And -- but also I think that is part 23 of the reason why I think we needed to rebuild 24 things after the, post TD. 25 Q. Jairaj was responsible for initially</p> <p style="text-align: center;">116</p>

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<p>1 developing the IPL with you?</p> <p>2 A. Not with me. As you can see it is</p> <p>3 between Ted and Jairaj.</p> <p>4 It is one of the points of</p> <p>5 contention between me and Ted Livingston.</p> <p>6 Q. So, you were not involved at this</p> <p>7 point at making decisions on what the IPL should</p> <p>8 consist of?</p> <p>9 A. I was involved on and off, based on</p> <p>10 what Ted decided.</p> <p>11 Q. You didn't agree that it should be</p> <p>12 done at all at this point, correct?</p> <p>13 MR. DEJARNETTE: Objection.</p> <p>14 THE WITNESS: No, I don't think this</p> <p>15 is true at this point in time. I think we</p> <p>16 already, like I said, the decision was made.</p> <p>17 Now it is just implementing it.</p> <p>18 And, I think it is important</p> <p>19 context. Jairaj at one point reported to</p> <p>20 engineering; that is Dave Simons.</p> <p>21 At one point reported to me. And</p> <p>22 then at one point, reported to Ted, all in</p> <p>23 very, very short time frame. So it wasn't</p> <p>24 clear.</p> <p>25 At the time, as far as I recall, at</p> <p style="text-align: center;">117</p>	<p>1 BY MR. MENDEL:</p> <p>2 Q. Did I read that correctly from the</p> <p>3 e-mail?</p> <p>4 A. Yes.</p> <p>5 Q. And then going to Page 1 of</p> <p>6 Exhibit 10 on the bottom. Thursday, May 18th,</p> <p>7 2017, at 16:52, or 4:52, Mr. Livingston wrote, "I</p> <p>8 feel they are roughly equal." And then there is</p> <p>9 a quote, "We wanted to give away for users to</p> <p>10 demonstrate their status," and then the word is</p> <p>11 cut off, but I think it says, "when they met new</p> <p>12 people in our chat community."</p> <p>13 Is that how you read this e-mail?</p> <p>14 MR. DEJARNETTE: Objection.</p> <p>15 THE WITNESS: Can you clarify the</p> <p>16 question? What is the question? If this is</p> <p>17 what --</p> <p>18 BY MR. MENDEL:</p> <p>19 Q. I just want to establish what the</p> <p>20 e-mail says.</p> <p>21 MR. DEJARNETTE: The document --</p> <p>22 BY MR. MENDEL:</p> <p>23 Q. Do you agree that I'm reading it</p> <p>24 correctly?</p> <p>25 MR. DEJARNETTE: The document speaks</p> <p style="text-align: center;">119</p>
<p>1 the time where he wrote this, he was actually</p> <p>2 in Tel Aviv. And he had like almost like a</p> <p>3 separate line of communication with Ted</p> <p>4 Livingston. And where the Tel Aviv office</p> <p>5 was really not aware of what he is discussing</p> <p>6 with Ted and nor was I.</p> <p>7 BY MR. MENDEL:</p> <p>8 Q. So, it is fair to say that</p> <p>9 Mr. Livingston was actively involved in helping</p> <p>10 to decide what the MVP should consist of?</p> <p>11 A. At this point in time.</p> <p>12 MR. DEJARNETTE: Let him finish his</p> <p>13 question before you answer.</p> <p>14 THE WITNESS: Sorry.</p> <p>15 BY MR. MENDEL:</p> <p>16 Q. Can you answer the question?</p> <p>17 A. I think at this point in time I</p> <p>18 think he was involved working with Jairaj on what</p> <p>19 that scope of the MVP or IPL V1 should look like,</p> <p>20 yes.</p> <p>21 Q. Jairaj writes on May 18th, 2018,</p> <p>22 at 7:12 a.m. "Sharing verified balance as a</p> <p>23 special content message can be done in a day."</p> <p>24 MR. DEJARNETTE: Objection.</p> <p>25 THE WITNESS: What is the question?</p> <p style="text-align: center;">118</p>	<p>1 for itself.</p> <p>2 THE WITNESS: Yep, yes.</p> <p>3 BY MR. MENDEL:</p> <p>4 Q. Okay. And then you write, well, let</p> <p>5 me continue the e-mail chain.</p> <p>6 Following Mr. Livingston's e-mail,</p> <p>7 Jairaj writes, "Decision made. We are going</p> <p>8 sticker pack flow. Eran will hook me up with</p> <p>9 content and then I will build the," and then it</p> <p>10 is cut off.</p> <p>11 Was this Jairaj making the decision</p> <p>12 about what the IPL should consist of?</p> <p>13 A. I don't know.</p> <p>14 Q. But he is recording that the</p> <p>15 decision was made, right?</p> <p>16 A. Yes.</p> <p>17 Q. And, Mr. Livingston writes, "Great."</p> <p>18 And then also on May 18th you write, "Hi all, I</p> <p>19 took a liberty to write up a short spec for the</p> <p>20 MVP, attached." Correct?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And did you write the spec?</p> <p>23 A. Yes.</p> <p>24 (Exhibit Number 11</p> <p>25 marked for identification.)</p> <p style="text-align: center;">120</p>

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<p>1 THE WITNESS: Thank you.</p> <p>2 MR. CADIGAN: Can I see that?</p> <p>3 MR. MENDEL: Yes, I am getting</p> <p>4 counsel a copy. I just want to make sure it</p> <p>5 is the right copy.</p> <p>6 I do, but this other copy I am</p> <p>7 giving you, this first page is formatted</p> <p>8 differently. The one that Mr. DeJarnette is</p> <p>9 holding is a replica of what the witness has</p> <p>10 as Exhibit 11.</p> <p>11 BY MR. MENDEL:</p> <p>12 Q. Mr. Ben-Ari, I have given you an</p> <p>13 exhibit what has been marked as Exhibit 11. And</p> <p>14 it consists of a first page that is a screen shot</p> <p>15 of information.</p> <p>16 MR. DEJARNETTE: Is there a Bates</p> <p>17 Number that goes along with this first page?</p> <p>18 BY MR. MENDEL:</p> <p>19 Q. There is, you will see at the top of</p> <p>20 the page, of the first page of Exhibit 11, it is</p> <p>21 actually a screen shot of metadata for the</p> <p>22 document. But it is associated with the first</p> <p>23 Bates Kik_00031620.</p> <p>24 Last Bates Kik_00031621.</p> <p>25 MR. DEJARNETTE: Thank you.</p> <p>121</p>	<p>1 in Exhibit 10?</p> <p>2 MR. DEJARNETTE: Objection.</p> <p>3 THE WITNESS: I don't remember if</p> <p>4 that is the link. It may have been a link.</p> <p>5 But, I'm not sure. This is the document.</p> <p>6 BY MR. MENDEL:</p> <p>7 Q. You don't know if Exhibit 11 was the</p> <p>8 Google document that existed at the time you sent</p> <p>9 the link on May 18th. Is that what you are</p> <p>10 saying?</p> <p>11 A. Yes.</p> <p>12 Q. But, do you think it is a version of</p> <p>13 the same document that you linked?</p> <p>14 A. It could be, yes.</p> <p>15 Q. Could be. Well, if you look on the</p> <p>16 first page of Exhibit 11, it is the screen shot</p> <p>17 of the metadata, so, if you hold it.</p> <p>18 A. Yes.</p> <p>19 Q. If you go up, do you see the file</p> <p>20 name.</p> <p>21 A. Yes, I do.</p> <p>22 Q. Okay.</p> <p>23 A. The file path name?</p> <p>24 Q. Yes, well it is a file name it says</p> <p>25 Crypto MVP_ and there is this long string</p> <p>123</p>
<p>1 BY MR. MENDEL:</p> <p>2 Q. Sure thing. And then you will see</p> <p>3 that on the second and third pages of Exhibit 11</p> <p>4 there are Bates Numbers on the lower right-hand</p> <p>5 corners of the document. Kik_00031620 to</p> <p>6 Kik_00031621. Do you see those?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And I just want to start on</p> <p>9 this second page of Exhibit 11.</p> <p>10 And it says at the top Alpha/MVP.</p> <p>11 Looking at these last two pages of</p> <p>12 the exhibit, do you recognize these?</p> <p>13 A. Yes. They seem familiar.</p> <p>14 Q. Does it look like a version of the</p> <p>15 spec that you wrote for the MVP?</p> <p>16 A. It looks like an early version of</p> <p>17 that, yes.</p> <p>18 Q. Right. And this was like done on</p> <p>19 Google docs, right?</p> <p>20 A. Yes.</p> <p>21 Q. It changed over time?</p> <p>22 A. Yes.</p> <p>23 Q. Was this the doc, was this the</p> <p>24 document or the spec that was the subject of the</p> <p>25 link that you sent to Mr. Livingston and others</p> <p>122</p>	<p>1 beginning with 1TYF, do you follow?</p> <p>2 A. Yes, I do.</p> <p>3 Q. And I just want to compare that to,</p> <p>4 on Exhibit 10 when you wrote in your May 18th</p> <p>5 e-mail, "I took the liberty to write a short spec</p> <p>6 for the MVP."</p> <p>7 So, go to Exhibit 10. Do you have</p> <p>8 it?</p> <p>9 A. Yes, I do.</p> <p>10 Q. The Hi All e-mail and do you see the</p> <p>11 long string for the link.</p> <p>12 And there is a string beginning with</p> <p>13 1TYF similar to what is on the other one.</p> <p>14 A. I do.</p> <p>15 Q. Does that look to be like the same</p> <p>16 string?</p> <p>17 A. It does, yes. Thank you.</p> <p>18 Q. And you are welcome. So, we think</p> <p>19 it is, the link is to the Google doc that is</p> <p>20 included in Exhibit 11, right?</p> <p>21 A. Yes.</p> <p>22 Q. Great. And you, and the beginning</p> <p>23 of the spec, I'm back on Exhibit 11, Bates</p> <p>24 Number 00031620 with Alpha MVP at the top, the</p> <p>25 paragraph states, "Crypto is a layer that we will</p> <p>124</p>

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<p>1 use to provide experience otherwise a possible 2 community chat. 3 "But as much as it can be of great 4 potential for building communities, it can also 5 negatively impact Kik users if not introduced in 6 the right way. 7 "Kik intends to introduce Kin 8 gradually to Kik users, using a short and long 9 processes (a lot of experimentation and customer 10 validation)." 11 So, what did you mean, did you write 12 that paragraph? 13 A. I think so, yes. 14 Q. Okay. And what did you mean with, 15 by, "it can also negatively impact Kik users if 16 not introduced in the right way"? 17 A. So, it is referring to something I 18 said earlier on. 19 If it is not introduced in a way 20 that degrades their experience, that can be 21 really bad. 22 For example, the latency issue. If 23 you send an issue from one client to another 24 client takes me 30 seconds, it is not 25 instantaneous. That can degrade the experience</p> <p>125</p>	<p>1 users, then we would move to the long, which is 2 probably rebuilding and attending to tech debt. 3 So rebuilding the product, involving additional 4 stakeholders that, for example, marketing, legal, 5 finance, in terms of other considerations when 6 you launch a big feature or functionality. 7 And, because I believe that the 8 short and long can help us in A, making sure we 9 are building the right product; and B, in the 10 long also building the product in the right way, 11 I thought this is the way to approach it. 12 Q. What is tech debt? 13 A. Tech debt? 14 Q. Yes. 15 A. Many times and nothing, Jairaj is a 16 great example, you can launch functionality 17 within an app very quickly. 18 But, the result of that is that you 19 are introducing technological debt in the code 20 base. This means that, for example, for a 21 select, I don't know, thousand users, it may work 22 really flawlessly. But, you cannot scale this to 23 millions of users easily. 24 So, you have to attend to the tech 25 debt and rewrite parts of the code base once you</p> <p>127</p>
<p>1 for Kik users. 2 Q. Were you worried about Kik users 3 being driven away by the new product? 4 MR. DEJARNETTE: Objection. 5 THE WITNESS: I was concerned that 6 if it is not going to be done in a 7 responsible manner through a lot of 8 experimentation and research, that may result 9 in some of the Kik users leaving Kik and 10 moving to another messaging platform. 11 BY MR. MENDEL: 12 Q. What did you mean by short and long 13 processes? 14 A. So, the short and long -- when I 15 took on the role of the Chief Product Officer, as 16 I said earlier on, the company used to develop in 17 intervals of six months or so new features of 18 functionality. 19 The short and long was the ability 20 to move very, very quickly to figure out and 21 validate whether or not we are actually building 22 the right product. That is the short. By 23 running a lot of experiments and experimentation 24 and MVPs. 25 And if it resonates well with the</p> <p>126</p>	<p>1 actually realize that what you, whatever you 2 built and launched actually resonates well with 3 the users. 4 Q. And it is your view that Jairaj's 5 work was susceptible to tech debt? 6 A. This was not my impression. This 7 was the impression that I got from Dave Simons, 8 the SVP of Engineering. There is a risk. 9 Q. That is why you called him a hacker, 10 right? 11 A. Yes. 12 Q. Which process was used for, to 13 develop the MVP or IPL1? Was it the long or the 14 short? 15 MR. DEJARNETTE: Objection. 16 THE WITNESS: So, I think -- 17 BY MR. MENDEL: 18 Q. Let me, let me -- 19 A. Yes, sorry. 20 Q. -- pinpoint the time period. 21 A. Yes. 22 Q. At the time you were developing the 23 MVP to be included in the token distribution 24 event and you wrote this, from the time you wrote 25 this spec in May of 2017 until the token</p> <p>128</p>

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<p>1 distribution event, what process was used to 2 develop the MVP? Was it long or short? 3 A. Probably a hybrid approach. Because 4 if it was purely short, we would not have 5 marketing, legal, finance involved in the 6 decision-making. 7 But, we didn't build a full, I would 8 say the entire product from Day 1. 9 Q. Can you just look at your 10 investigative testimony? 11 A. Yes. 12 Q. Look at, again, we are just looking 13 at the transcript Page 59, there is four pages 14 per page of Exhibit Number 2. 15 And I'm looking at transcript 16 Page 59. Are you there? 17 A. Yes, I am. 18 Q. Again this is your testimony a year 19 ago. 20 A. Uh-huh. 21 Q. In October 2018. And you, the 22 question on Line 10 is "During your time at Kik, 23 what did Marketing do for the long process of the 24 Kin ICO." 25 And your answer was "As we never</p> <p style="text-align: center;">129</p>	<p>1 the MVP or the IPL-1? 2 MR. DEJARNETTE: Objection. 3 THE WITNESS: They didn't do 4 specific. 5 MR. MENDEL: What is the objection 6 counsel? 7 MR. DEJARNETTE: Foundation. 8 BY MR. MENDEL: 9 Q. Is it your understanding that the 10 Marketing Department did research for the MVP or 11 the IPL1? 12 A. Yes. 13 Q. Okay. What research did it do? 14 A. So, there was, what I call 15 foundational research, which had to do with 16 expressive content and that is not directly 17 connected to the IPL. 18 But, on top of that, RONALDA CLIFTON 19 did research around expressive content and 20 stickers. I think that is why they came up with 21 the badgers and the way that the badger stickers 22 were designed also were made in a way to 23 differentiate it, these stickers from other 24 stickers that were used within the Kik Messenger 25 app.</p> <p style="text-align: center;">131</p>
<p>1 advanced to the long, I don't think they did 2 anything as part of the long process." 3 A. Yeah, so, I think I may have been 4 misinterpreted in that aspect. 5 There are two different things. In 6 the short is you want to validate a bunch of 7 hypothesis that you have, right? So, the reason 8 I think why we launched the sticker is because 9 expressive content. Expressive content was a 10 fruit of research that Marketing did more than 11 anyone else. 12 So, I think they were definitely 13 involved in the IPL. 14 Again, I think because there were 15 considerations beyond product engineering when we 16 developed IPL, I would say it is probably a 17 hybrid approach between the short and the long. 18 Because the short basically is 19 within the confines of product engineering, we 20 work and we do not involve additional 21 stakeholders. But I think additional 22 stakeholders were involved, additional 23 departments within the company were involved in 24 the decision around the IPL. 25 Q. What research did marketing do for</p> <p style="text-align: center;">130</p>	<p>1 So, they could actually show status 2 for those who actually have Kin. 3 So, for example, when you look at 4 the stickers, you will see that in both stickers 5 that were, I don't remember the number of 6 exhibits, previously you see that there is Kin in 7 the sticker. No other stickers within the Kik 8 Messenger have that Kin. 9 Q. Are you done? 10 A. Yes. 11 Q. Did -- what was the name of the 12 person who conducted the research again? 13 A. RONALDA CLIFTON. 14 Q. Can you spell it? 15 A. R-O-N-A-L-D-A, C-L-I-F-T-O-N. 16 Q. Was her research based on Kik 17 Messenger users? 18 A. Yes. As far as I recall, yes. 19 Q. Were you aware of her doing any 20 research outside of Kik Messenger users for other 21 potential participants in the token distribution 22 event? 23 A. No. 24 MR. DEJARNETTE: We have been going, 25 or we are a little over an hour. I don't</p> <p style="text-align: center;">132</p>

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<p>1 know if you want to take another break. 2 MR. MENDEL: Off the record 3 at 11:45. 4 THE VIDEOGRAPHER: Okay. The time 5 is 11:46 a.m. We are going off the record. 6 (Recess taken -- 11:46 a.m.) 7 (After recess -- 11:58 a.m.) 8 THE VIDEOGRAPHER: The time 9 is 11:58 a.m. and we are back on the record. 10 BY MR. MENDEL: 11 Q. There was a public announcement by 12 Kik of Kin, correct? 13 A. Correct. 14 Q. And did you refresh your memory 15 about when that occurred at all? 16 A. I think we said it was May 27th. 17 Q. May 25th, 2017? I said that and you 18 agreed? 19 A. Yes. 20 Q. Okay. Do you know where the public 21 announcement -- well, first of all who from Kik 22 made the announcement? 23 A. I don't recall. 24 Q. Do you recall if Mr. Livingston was 25 involved in that?</p> <p style="text-align: center;">133</p>	<p>1 reason to doubt that? 2 A. No. 3 Q. Is that your best estimation of what 4 it was for? 5 A. Yes. 6 (Exhibit Number 12 7 marked for identification.) 8 BY MR. MENDEL: 9 Q. I have given you what has been 10 marked as Exhibit 12. And as you will see this 11 was Investigative Exhibit 2. It is marked by the 12 Bates Numbers Kik 000001 on the front, first page 13 last page, Kik 000028. And the first page says 14 Kin: A Decentralized Ecosystem of Digital 15 Services For Daily Life Position Paper. 16 Is this the white paper that Kik 17 issued? 18 A. Yes. 19 Q. You have had a chance to look at it? 20 A. I'm looking at it. 21 MR. DEJARNETTE: Feel free to look 22 at it. 23 THE WITNESS: One moment. 24 BY MR. MENDEL: 25 Q. You have seen it, right?</p> <p style="text-align: center;">135</p>
<p>1 A. I could guess it was probably 2 Mr. Livingston, yes. 3 Q. Uh-huh. Do you know where the 4 public announcement occurred? 5 A. I don't remember. 6 Q. Do you know where you were at the 7 time the public announcement of Kin was made by 8 Kik? 9 MR. DEJARNETTE: Objection. 10 THE WITNESS: I don't remember. 11 BY MR. MENDEL: 12 Q. Is it right that one of the things 13 that Kik issued when it publicly announced Kin 14 was a white paper? 15 A. I think, yes. 16 Q. And what was the white paper? 17 A. It is a vision document. 18 Q. And it was prepared by Kik? 19 A. Yes. 20 Q. Was it intended for -- 21 Was Kik's white paper intended for 22 potential participants of the token distribution 23 event? 24 A. I guess so, yes. 25 Q. You guess so. Do you have any</p> <p style="text-align: center;">134</p>	<p>1 A. Yes. 2 Q. And were you involved at all in the 3 drafting of this white paper? 4 A. So, I played the reactive mode, 5 reactive role. And around the Use Cases section 6 I was involved. 7 Q. So, was the draft already in 8 progress when you got involved? 9 A. Yes. 10 Q. And looking at the Use Cases, I'm 11 going to turn to Page 11 of Exhibit 12 and it is 12 Kik 000011. Starting on Page 11 and going to 15. 13 Is this the section that you focused on? 14 And I should say on Page 11, the 15 first caption that we see in the middle of pages 16 Kin Integration in Kik. 17 A. Yes. 18 Q. So, Pages 11 to 15 were ones that 19 you focused on. Right? 20 A. Yes. 21 Q. So, let me just run through some of 22 the subtitles that we see. 23 Also on page 11 underneath Kin 24 Integration in Kik, there is an Earnable Currency 25 and then on Page 12 we see Kin Wallet, and below</p> <p style="text-align: center;">136</p>

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<p>1 there is a section on that, and then below also 2 on Page 12, Ethereum Settlement Layer, and then 3 below that we see Kik Economy and Prospective Use 4 Cases. 5 And those are the use cases that you 6 referred to, right? 7 A. Yes. 8 Q. And then the next page, on Page 13 I 9 see four examples. There is on Page 13 Example 10 Use Case: VIP Groups. There is also on Page 13 11 Example Use Case: Premium User Generated 12 Content. On Page 14, Example Use Case: Shout 13 Out Messages, also on Page 14, Example Use Case: 14 Tipping. 15 And then on Page 15 there is two 16 more, right? Example Use Case: BOT 17 monetization, and Example Use Case: Brand and 18 Mission. Did I get all those? 19 A. Yes. 20 Q. And you looked at all of those? 21 A. Yes. 22 Q. And were these use cases in the 23 white paper, were these uses that Kik was 24 proposing to implement into the Messenger? 25 A. No, I think it was more --</p> <p style="text-align: center;">137</p>	<p>1 Q. What was your view even on including 2 them at all in the white paper? 3 A. My view at the time is that if this 4 is helpful in terms of making a vision more 5 concrete and we can attract more of those 6 enthusiasts that are bought into the vision, that 7 is a good thing to do. 8 Q. Did you have any concerns about 9 including them? 10 A. Again, I am, the audience of this 11 document is a vision document is to, you know, 12 find more people who are bought into the vision. 13 From that perspective, I don't think 14 there is a problem with that. 15 If this is something that could be 16 used to communicate directly with Kik Messenger 17 users, that was and still is a concern of mine, 18 without substantiating that with real evidence. 19 Q. Did you think that including the use 20 cases in the white paper could be 21 counterproductive? 22 MR. DEJARNETTE: Objection. 23 BY MR. MENDEL: 24 Q. What is the objection? 25 MR. DEJARNETTE: Vague. What is</p> <p style="text-align: center;">139</p>
<p>1 MR. DEJARNETTE: Objection. 2 THE WITNESS: I think, as I said 3 earlier on, the white paper is a vision 4 document. 5 It was to spark the imagination 6 around the ecosystem and once it was 7 established these different use cases could 8 be implemented. 9 But, I made sure from my perspective 10 given the testimony I gave earlier on today 11 is that we are not committing to implement 12 any of those into the Kik Messenger app, 13 because some of them may or may not degrade 14 the experience for Kik users. 15 BY MR. MENDEL: 16 Q. So, you had not sufficiently 17 investigated these use cases to commit to 18 implementing them as part of the token 19 distribution event. Correct? 20 MR. DEJARNETTE: Objection. 21 THE WITNESS: So, at this point in 22 time we did not complete our research into 23 understanding whether or not this will 24 resonate well with Kik users. 25 BY MR. MENDEL:</p> <p style="text-align: center;">138</p>	<p>1 counterproductive? 2 THE WITNESS: Can you -- 3 BY MR. MENDEL: 4 Q. Okay. 5 A. Can you just define what 6 counterproductive is? 7 Q. Sure. Let me get out another 8 exhibit to help us with that. I think those are 9 your words not mine. 10 A. Okay. 11 (Exhibit Number 13 12 marked for identification.) 13 BY MR. MENDEL: 14 Q. So, I'm providing you with what has 15 been marked as Exhibit 13. Identified by, in the 16 lower right-hand corner by Kik_00124018. Running 17 to Kik_00124021. 18 And, do you see that this is an 19 e-mail chain? 20 A. Yes. 21 Q. On the first page in the middle 22 toward the top it says on Saturday May 20th, 23 2017, at 10:34 p.m., you, Mr. Ben-Ari wrote, "Hi 24 Dany," that is Dany Fishel? 25 A. Yes.</p> <p style="text-align: center;">140</p>

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<p>1 Q. "I still think diving into product 2 use cases and examples without really knowing our 3 product can be counterproductive. And it is also 4 a sign that the narrative of the white paper may 5 have changed from vision to product-led which we 6 can't back up." 7 Did I get that correct? 8 A. Yes. 9 Q. And you wrote that. What did you 10 mean by that? 11 A. I meant that I was worried about 12 having the use cases, and if that, then, up to 13 that point we discussed that the white paper will 14 be a vision document around an imagined state of 15 affairs. 16 And, the more we move, and it is a 17 continuum from the vision into concrete and 18 tangible things that we may develop, that can 19 result in being counterproductive. 20 So, I raised that concern to Dany. 21 Q. And this was on May 20th? 22 A. Yes. 23 Q. So, this was five days before the 24 issuance of the white paper. Correct? 25 A. Yes.</p> <p style="text-align: center;">141</p>	<p>1 Q. You did not want, from a product 2 perspective in the section that you worked on and 3 you reviewed, Pages 11 to 15 of the white paper, 4 you as Chief Product Officer didn't want anything 5 in those pages that Kik was actually planning to 6 implement. Isn't that right? 7 A. Yes, so -- 8 MR. DEJARNETTE: Same objection. 9 THE WITNESS: I'm again, this is the 10 regular attention that you have. I'm part of 11 the executive team but I'm also the Chief 12 Product Officer, right. I wanted the TDE to 13 be successful and I understand why it needed 14 to be part of the white paper. 15 I also want to make sure that we are 16 not committing ourselves to build something 17 that won't resonate well with our customers. 18 So on the one hand, yes, I was 19 opposed to that. On the other hand, I 20 understand the importance of that. You know, 21 following, I, the e-mail I sent to Dany, I 22 assumed that we discussed that. 23 BY MR. MENDEL: 24 Q. But I'm talking about product 25 functionality, to use your words, functionality</p> <p style="text-align: center;">143</p>
<p>1 Q. You can put that here. Put this 2 back. 3 Was the MVP that we discussed 4 earlier pertaining to the stickers, was that in 5 the white paper? 6 A. No. 7 Q. Why was the MVP not discussed in the 8 white paper? 9 A. Because I think the white paper is a 10 vision document and the MVP is the first product 11 that we intend to launch. 12 Q. You don't want anything that Kik 13 actually had plans to do in the white paper. 14 Correct? 15 MR. DEJARNETTE: Objection. 16 BY MR. MENDEL: 17 Q. With respect to product? 18 MR. DEJARNETTE: Objection. 19 BY MR. MENDEL: 20 Q. What is the objection? 21 MR. DEJARNETTE: Argumentative. 22 MR. MENDEL: You can answer. 23 THE WITNESS: Can you explain the 24 question again? 25 BY MR. MENDEL:</p> <p style="text-align: center;">142</p>	<p>1 that you had plans to implement. You did not 2 want functionality that you planned to implement 3 in the white paper. Correct? 4 MR. DEJARNETTE: Same objection. 5 THE WITNESS: I don't think that was 6 discussed. I don't think there was a point 7 in time where we discussed whether or not to 8 include the IPL in the white paper or not. I 9 don't remember that. 10 BY MR. MENDEL: 11 Q. But it is not in the white paper? 12 A. It is not in the white paper. But 13 it was not that I was opposed or not opposed to 14 it. I don't remember talking about that as an 15 option. 16 Q. Who had final say on what went into 17 the product section of the white paper? 18 A. I would say Ted Livingston. 19 Q. Okay. You can put the white paper 20 down for the moment. 21 A. Okay. 22 Q. Or give it to the court reporter, 23 please. 24 A. Okay. 25 (Exhibit Number 14</p> <p style="text-align: center;">144</p>

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<p>1 marked for identification.)</p> <p>2 BY MR. MENDEL:</p> <p>3 Q. I have given you what has been</p> <p>4 marked as Exhibit 14. It is a one-page exhibit</p> <p>5 marked by the identified by the Bates Number</p> <p>6 Kik_00103250.</p> <p>7 It appears to be an e-mail dated</p> <p>8 June 5th, 2017, from you, Mr. Ben-Ari, to</p> <p>9 somebody named Hayeon Kim?</p> <p>10 And then there is, on the cc: lines</p> <p>11 Erin Clift, Peter Heinke, Ted Livingston and Dany</p> <p>12 Fishel.</p> <p>13 Do you recognize this e-mail?</p> <p>14 A. Yes.</p> <p>15 Q. And you wrote this, correct?</p> <p>16 A. Yes.</p> <p>17 Q. And who is Hayeon Kim?</p> <p>18 A. Hayeon I think was either director</p> <p>19 or VP Marketing on Erin's team.</p> <p>20 Q. She reported to Erin?</p> <p>21 A. Yes.</p> <p>22 Q. And just, can you repeat who</p> <p>23 Mr. Heinke was?</p> <p>24 A. Peter Heinke was the Chief Financial</p> <p>25 Officer of Kik.</p> <p style="text-align: center;">145</p>	<p>1 Q. Was she, did she work at Kik?</p> <p>2 A. No.</p> <p>3 Q. Where did she work?</p> <p>4 A. For Cooley.</p> <p>5 Q. The firm Cooley?</p> <p>6 A. Yes.</p> <p>7 Q. So, she reviewed the spec and she</p> <p>8 approved it, correct?</p> <p>9 A. Yes.</p> <p>10 Q. How did she communicate her approval</p> <p>11 to you?</p> <p>12 MR. DEJARNETTE: I'm going to</p> <p>13 caution you not to get into communications</p> <p>14 with Nancy.</p> <p>15 THE WITNESS: I don't remember how.</p> <p>16 BY MR. MENDEL:</p> <p>17 Q. And I didn't want to know the</p> <p>18 content of what she said.</p> <p>19 A. Yes.</p> <p>20 Q. I just wanted to know the manner for</p> <p>21 the communication in which she approved the</p> <p>22 content of the spec.</p> <p>23 You don't remember?</p> <p>24 A. I don't remember if it was via</p> <p>25 e-mail or a call. I don't remember. One of the</p> <p style="text-align: center;">147</p>
<p>1 Q. And Mr. Livingston was the CEO,</p> <p>2 correct?</p> <p>3 A. Yes.</p> <p>4 Q. What did Mr. Fishel do?</p> <p>5 A. He was Kik Israel president.</p> <p>6 Q. Was this the executive team?</p> <p>7 A. Part of the executive team.</p> <p>8 Q. And, this was after the white paper</p> <p>9 was issued, correct?</p> <p>10 A. Yes.</p> <p>11 Q. You write, "Hi all, below is a spec</p> <p>12 to the link I wrote a few weeks back. This was</p> <p>13 approved by," I think it says Nancy. There is a</p> <p>14 typo.</p> <p>15 A. Uh-huh.</p> <p>16 Q. "And later used as the basis for</p> <p>17 what Jiaraj implemented within Kik."</p> <p>18 So, this is this same spec that you</p> <p>19 worked on earlier that we discussed in today's</p> <p>20 deposition, right?</p> <p>21 You are forwarding the same spec</p> <p>22 that you had worked on that we discussed?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And who is Nancy?</p> <p>25 A. Nancy was our legal counsel.</p> <p style="text-align: center;">146</p>	<p>1 two.</p> <p>2 Q. The next paragraph writes:</p> <p>3 "This definition was written with</p> <p>4 one purpose only. Compliance. This is not an</p> <p>5 MVP for product purposes, nor to satisfy any good</p> <p>6 user experience for crypto participants?</p> <p>7 "We discussed that once we integrate</p> <p>8 Kin into Kik, we will rebuild the entire product</p> <p>9 bottom up and the MVP will not be used in any</p> <p>10 way."</p> <p>11 And then the word compliance is in</p> <p>12 bold face and all caps in the e-mail.</p> <p>13 This e-mail reflected your view of</p> <p>14 the time you wrote it, correct?</p> <p>15 A. Yes. I think so.</p> <p>16 Q. And, is it the case that this</p> <p>17 reflected your frustration with other Kik</p> <p>18 executives who wanted to include an MVP over your</p> <p>19 objections?</p> <p>20 A. Yes.</p> <p>21 Q. And you are distinguishing in this</p> <p>22 e-mail between two groups. Correct? Crypto</p> <p>23 participants and Kik users?</p> <p>24 MR. DEJARNETTE: Objection.</p> <p>25 THE WITNESS: I don't see any</p> <p style="text-align: center;">148</p>

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1 reference to Kik users here.
 2 BY MR. MENDEL:
 3 Q. Well when you say this is not, not
 4 in all caps, an MVP for product purposes, what
 5 product purposes did you have in mind?
 6 A. I don't remember what I meant there.
 7 Q. Were you directing it at Kik users?
 8 A. The IPL, the MVP?
 9 Q. Yes. Kik Messenger users -- users
 10 of Kik Messenger, that was what the MVP was for?
 11 A. The MVP was for anyone who was going
 12 to participate in the TDE, potentially, right?
 13 If they have the Kik Messenger, I don't know what
 14 the overlap between --
 15 Q. Well we talked about that earlier
 16 that MVP was for users of Kik Messenger, right?
 17 That is what it was targeted toward.
 18 Otherwise, I had no way to --
 19 A. I think what we said was --
 20 MR. DEJARNETTE: Objection.
 21 THE WITNESS: -- and correct me if I
 22 am wrong, is that these are TD participants
 23 that also have access to the Kik Messenger.
 24 It was not --
 25 BY MR. MENDEL:

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1 Q. Correct.
 2 A. -- built for the Kik Messenger
 3 users.
 4 Q. Correct. So, what you are saying
 5 here then, this is not an MVP for TDE participants
 6 who are Kik Messenger users, correct?
 7 MR. DEJARNETTE: Objection.
 8 THE WITNESS: No, why are you
 9 deducting that?
 10 BY MR. MENDEL:
 11 Q. What did you mean by "for product
 12 purposes"?
 13 A. As I said, I don't remember exactly
 14 what I meant. I do remember being very
 15 frustrated. But I don't remember exactly what I
 16 meant by this sentence.
 17 Q. You wrote, "Nor to satisfy any good
 18 user experience for crypto participants."
 19 Who did you mean by crypto
 20 participants?
 21 A. I think at the time I meant those TD
 22 participants that may not have access to Kik
 23 Messenger.
 24 Q. When you drafted the spec that is
 25 sent by link in this e-mail --

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1 A. Yes.
 2 Q. Did you have any information on what
 3 buyers in the token distribution event would
 4 want?
 5 A. No.
 6 Q. You only had information gleaned
 7 from Kik users, correct?
 8 A. Yes.
 9 Q. Kik Messenger users.
 10 A. Yes.
 11 Q. You didn't have the goal of aiming
 12 the minimum viable product to all of the
 13 participants in the token distribution event, did
 14 you?
 15 MR. DEJARNETTE: Objection.
 16 THE WITNESS: Again, my aim was to
 17 any TD participant.
 18 It is their decision whether or not
 19 they are going to download, sign up for the
 20 Kik Messenger.
 21 But, every TD participant
 22 potentially has the potential to use the MVP.
 23 BY MR. MENDEL:
 24 Q. They have the potential to use the
 25 MVP if they create a Kik user account, correct?

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1 A. Yes.
 2 Q. In the e-mail, Exhibit 14, there is
 3 a sentence, "We discussed that once we integrate
 4 Kin into Kik we will rebuild the entire product
 5 bottom up."
 6 Who was the "we"?
 7 A. I think Product Engineering.
 8 Q. And --
 9 A. And this --
 10 Q. That is the group, I'm sorry,
 11 Product Engineering would be under your
 12 direction, correct?
 13 A. No, just product.
 14 Q. Okay. So, we refers to an earlier
 15 discussion with product, with engineering?
 16 A. Yes. It refers to a discussion I
 17 had with Dave Simons that we would need to
 18 rebuild the technical infrastructure.
 19 Q. And when did that discussion take
 20 place?
 21 A. I don't remember.
 22 Q. But before you wrote the e-mail?
 23 A. Yes.
 24 Q. And who made the final decision on
 25 the content of the MVP?

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<p>1 A. I think Ted Livingston. 2 (Exhibit Number 15 3 marked for identification.) 4 BY MR. MENDEL: 5 Q. I have given you what has been 6 marked as Exhibit 15. 7 MR. CADIGAN: Is this the same 8 document? 9 MR. DEJARNETTE: I think I have the 10 right one. I think you gave Luke -- 11 MS. BAILEY: That was the right one. 12 BY MR. MENDEL: 13 Q. We are on Exhibit 15 now? 14 A. Yes. 15 Q. Correct. And, it is the one that is 16 also was introduced as Investigative Exhibit 194, 17 identified by Kik_00103267. And this is a follow 18 on e-mail from the e-mail that we just saw in 19 Exhibit 14. Right? 20 This one is dated, again from you 21 but it is to Martha Funston and that is dated 22 June 10th, 2017, right? 23 A. Yes. 24 Q. And you also sent that e-mail? 25 A. Yes.</p> <p style="text-align: center;">153</p>	<p>1 notice of the MVP? 2 A. No, I remember them receiving a 3 notice. I don't remember when that notice was 4 given. 5 Q. That Mailchimp e-mail, if it took 6 place, couldn't have been before they registered 7 for the event. Correct? 8 A. I think that is correct, yes. 9 Q. So, before registration of the token 10 distribution event there was no notification by 11 Kik to potential participants of the MVP, 12 correct? 13 A. I think that is correct. 14 MR. MENDEL: Off the record. 15 THE VIDEOGRAPHER: The time is 16 12:24 p.m. and we are going off the record. 17 (Recess taken -- 12:24 p.m.) 18 (After recess -- 1:33 p.m.) 19 THE VIDEOGRAPHER: The time 20 is 1:33 p.m. and we are back on the record. 21 BY MR. MENDEL: 22 Q. Good afternoon, Mr. Ben-Ari. 23 A. Good afternoon. 24 Q. Can you take out what was marked as 25 Exhibit 12, the white paper. And could you turn</p> <p style="text-align: center;">155</p>
<p>1 Q. Who is Martha Funston? 2 A. Martha Funston was the Director of 3 Operations for Kik. 4 Q. And you wrote, "Hi all, Jiaraj has 5 been working on the Kin MVP, an essential step in 6 having a successful TDE. This MVP will show the 7 first part of functionality within Kik for crypto 8 wallet holders." 9 Correct? 10 A. Yes. 11 Q. So, it is function, the MVP would 12 show the functionality within Kik, correct? 13 A. It will show the functionality of 14 the MVP within Kik, yes. 15 Q. Do you know whether participants in 16 the token distribution event were told about the 17 MVP before the token distribution event took 18 place? 19 A. So, I think they were notified 20 through a Mailchimp e-mail, but I don't know if 21 that was prior to the TDE or as part of the TDE. 22 Q. You don't know one way or the other? 23 A. Yes. 24 Q. You have no independent knowledge of 25 token distribution event participants receiving</p> <p style="text-align: center;">154</p>	<p>1 to Page 21. 2 At the top it says Six Kin Token 3 Issuance, and then below that Kin Token 4 Allocations, right. 5 And just reading out loud the first 6 sentence, "In order to finance the Kin road map, 7 Kik will conduct a token distribution event that 8 will offer for sale 1 trillion units out of a 10 9 trillion unit total supply of Kin." 10 I have read that correctly, right? 11 A. Yes. 12 Q. Does that refresh your recollection 13 about how much Kin Kik was attempting to sell in 14 2017? 15 A. Yes. 16 Q. And is it right that Kik was 17 offering for sale 1 trillion units of Kin? 18 A. It is what it says. I think it is 19 right, yes. 20 Q. Okay. You are not aware of Kik 21 selling anything other than the 1 trillion Kin, 22 right? 23 A. That is correct. 24 Q. And it is the case that all of the 25 funds that Kik raised through Kin in 2017 came</p> <p style="text-align: center;">156</p>

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1 from this 1 trillion Kin, correct?
 2 MR. DEJARNETTE: Objection.
 3 THE WITNESS: As far as I know, yes.
 4 BY MR. MENDEL:
 5 Q. Can you turn to the back of
 6 Exhibit 12 where we have a, let's see, it is
 7 Page 24.
 8 And you see Number 8, Kik Founding
 9 Team. Kik executive team, Ted Livingston and
 10 under him is Peter Heinke?
 11 A. Yes.
 12 Q. That's accurate. And then the next
 13 page, 25, that is you, right? Eran Ben-Ari?
 14 A. Yes.
 15 Q. And then also Dany Fishel, Erin
 16 Clift?
 17 A. Yes.
 18 Q. And then the next page, Page 26 you
 19 have Dave Simons and Alim Dhanji, correct?
 20 A. Yes.
 21 Q. And that is the executive team that
 22 we have just covered, right?
 23 A. Yes.
 24 Q. Okay. And then these are, below for
 25 each person is a picture, and below their picture

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1 A. Yes.
 2 Q. What was Cointree?
 3 A. Cointree, they are similar to
 4 CoinFund was advisors that helped with the white
 5 paper.
 6 And specifically Cointree helped
 7 with the more technical aspects of the Blockchain
 8 infrastructure and security.
 9 Q. Where was Cointree based?
 10 A. I think in Israel, Tel Aviv.
 11 Q. Was it the case that Kik was
 12 considering a purchase or merger with Cointree?
 13 A. I don't know exactly what was the
 14 nature. But they were thinking about an
 15 acqui-hire.
 16 Q. An acqui-hire?
 17 A. Yes.
 18 Q. What is that?
 19 A. So, you acquire company for the
 20 people that work within it and not for the IP.
 21 Q. Was that consummated?
 22 A. Can you please explain that word?
 23 Q. Yes. Did Kik go ahead and proceed
 24 with the merger or the acqui-hire of Cointree?
 25 A. I think so. But I'm not aware of

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1 is a profile or a background, correct?
 2 A. Yes.
 3 Q. And then we get to Page 27 which is
 4 the captioned Kin Core Team and there is, let's
 5 see, 13 different people identified here, is that
 6 right?
 7 A. Yes.
 8 Q. We have Hayeon Kim. She is with Kik
 9 in marketing?
 10 A. Yes.
 11 Q. Rod McLeod, Communications
 12 Executive?
 13 A. Yes.
 14 Q. And Mr. Ilan Leibovich, VP Product,
 15 Tel Aviv.
 16 A. Yes.
 17 Q. Mr. Leibovich, he was a member of
 18 the Kin core team?
 19 A. As far as it says, yes.
 20 Q. This is what was represented to
 21 potential buyers of Kin, correct?
 22 A. Correct, yes.
 23 Q. And then we have somebody named, the
 24 next row down Leonid Beder and it says Cointree,
 25 right?

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1 what exactly were the business terms.
 2 Q. Or the timing?
 3 A. Or the timing, yes.
 4 Q. But, the people from Cointree were
 5 considered part of the Kin core team; is that
 6 right?
 7 A. Some people of the Cointree.
 8 Q. The three, let's see, there is three
 9 listed here. Those three, correct?
 10 A. Yes. And the two --
 11 Q. Sorry. Just, looking at Page 27,
 12 there is Oded Noam?
 13 A. Yes.
 14 Q. And Naama Hadad?
 15 A. Yes.
 16 Q. Okay. And, when you say Cointree
 17 was an advisor to Kik, what do you mean by that?
 18 A. That they helped write the white
 19 paper.
 20 Q. Were they like a consultant?
 21 A. Yes.
 22 Q. And, were they paid?
 23 A. I don't know if they were paid and
 24 if so how much.
 25 But, I ...

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<p>1 Q. Is it fair to assume that they were 2 paid? 3 A. Yes. 4 Q. Okay. Then, sticking with Page 27, 5 there is I'm just going to read their names 6 Tanner Philp. 7 A. Yes. 8 Q. P-H-I-L-P. Ory Band? 9 A. Yes. 10 Q. There is Jiaraj Sethi? 11 A. Yes. 12 Q. All of the names that I'm reading 13 now are Kik employees, correct? 14 A. Correct. 15 Q. Gadi Srebnik, S-R-E-B-N-I-K. 16 A. Yes. 17 Q. Doody Parizada? 18 A. Yes. 19 Q. Yohay Barsky, B-A-R-S-K-Y. 20 A. Yes. 21 Q. And David Bolshoy? 22 A. Yes. 23 Q. These are all Kik employees, 24 correct? 25 A. Correct.</p> <p style="text-align: center;">161</p>	<p>1 Q. When you say presale, are you 2 referring to the process by which Kik entered 3 into the SAFTs with certain people? 4 A. So, I'm not familiar with all of the 5 legal terminology, so, I don't know exactly. 6 But, I know this is something, one 7 of the two documents that I remember that as an 8 executive team member we had to review and sign 9 before the TD. 10 Q. Okay. It was given to certain 11 buyers? 12 A. I think so, yes. 13 Q. Were there any particular parts you 14 were asked to review? 15 A. Not that I recall of. 16 Q. Do you remember when you reviewed 17 it? 18 A. No. 19 MR. DEJARNETTE: Objection. 20 MR. MENDEL: What is the objection. 21 MR. DEJARNETTE: Misstates 22 testimony. He doesn't remember if he 23 reviewed it. 24 BY MR. MENDEL: 25 Q. Did you review this? I thought his</p> <p style="text-align: center;">163</p>
<p>1 Q. So, there is no one on Page 27 who 2 isn't either an employee of Kik or a 3 representative of Cointree, correct? 4 A. Correct. 5 Q. So, I have given what you has been 6 marked as Exhibit 16. 7 (Exhibit Number 16 8 marked for identification.) 9 BY MR. MENDEL: 10 Q. Identified by the Bates Number 11 Kik000037 on the first page. And to the back 12 page it is Kik, K-I-K, 000065. 13 On the first page at the top it says 14 Kik Interactive, Inc. Confidential Private 15 Placement Offering Memorandum, minimum 25 million 16 and maximum 50 million. 17 And I will also mention that 18 although this is a Deposition Exhibit 16, it was 19 previously Investigative Exhibit 4. 20 Are you familiar with this document? 21 A. Vaguely, yes. 22 Q. What is it? 23 A. I think it is the Confidential 24 Private Placement Offering Memorandum that was 25 given as part of the presale.</p> <p style="text-align: center;">162</p>	<p>1 testimony was ... 2 A. I remember I reviewed this and I had 3 to sign like a DocuSign. 4 Q. Yes. 5 A. And I don't remember if it is this 6 document or the other document there was a 7 specific component around the functionality that 8 will be launched. 9 So, I don't remember if -- 10 Q. I see. 11 A. Yes. 12 Q. Looking at Page 3 of Exhibit 16 and 13 also the page number identified by the Bates 14 Number 43. 15 A. Yes. 16 Q. In the lower right corner, let me 17 know when you get there? 18 A. I am there. 19 Q. Okay. And at the bottom of the page 20 there is a section that starts Initial Launch of 21 Kin and Kin Ecosystem. 22 Were you asked to read that part? 23 A. I think I was asked to read the 24 entire document. Not specifically this part. 25 Q. Did you read that part? That I'm</p> <p style="text-align: center;">164</p>

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1 referring to on Page 43 starting with initial
2 launch of Kin in the ecosystem?
3 **A.** I think so, yes.
4 **Q.** And let me just read from the
5 section. "At the time of the public distribution
6 event, the Kik Messaging application will have
7 the following functionality that 'minimum viable
8 product': A Kik user who owns Kin will be able
9 to create a 'wallet' inside the Kik app. The
10 wallet will be accessible via the settings menu
11 within the Kik Messaging application using a
12 private key. Only by entering the private key a
13 Kik user will be able to see his or her wallet,
14 (including the Kik user's Kin balance,
15 send/receive premium stickers, functionality, and
16 Kin status).
17 "Each Kik user (who has a Kik
18 wallet) will be categorized into one of five
19 categories of status based on the number of Kin
20 held by that Kik user."
21 Let me stop there.
22 This states the functionality or the
23 minimum viable product. So, this was the part of
24 the launch that was under your supervision,
25 correct?

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1 **A.** Yes.
2 **Q.** Okay. Let me just finish reading.
3 And this is, this continues the
4 description of the initial launch of Kin and
5 creating an ecosystem.
6 "A Kik user (who has a wallet) will
7 be eligible to use premium sticker packs based on
8 his or her status. Premium sticker packs will be
9 created by independent content creators, (not
10 brands).
11 "A Kik user (who has a wallet) will
12 be able to send any of his or her premium
13 stickers to any Kik user.
14 "However a Kik user who does not
15 have a wallet will only be able to receive
16 premium stickers from a Kik user (who has a
17 wallet)."
18 Did I read that correctly?
19 **A.** Yes.
20 **Q.** So, do these paragraphs describe the
21 MVP as it had been initially planned by Kik at
22 the time of the private placement memorandum?
23 **MR. DEJARNETTE:** Objection.
24 **THE WITNESS:** I think so, yes.
25 **BY MR. MENDEL:**

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1 **Q.** Does it accurately describe the MVP
2 that had been planned by Kik around the time of
3 the white paper?
4 **A.** I don't see any date around this
5 document. I don't know when this was actually,
6 what is the date? Do we have any indication of
7 when this-
8 **Q.** So, this document I don't believe
9 has a date.
10 **A.** So, it is difficult for me to answer
11 if this was before or after. Or at the same
12 time.
13 **Q.** Does it accurately reflect the
14 description of MVP at a particular point in time?
15 **A.** Yes.
16 **Q.** Is it consistent with the spec we
17 reviewed earlier that you took an initial stab at
18 drafting, what we reviewed earlier in the
19 testimony? Let me --
20 **A.** If you are referring to the Alpha.
21 **Q.** Let me pull up the exhibit so we
22 know exactly what we are talking about?
23 **MR. DEJARNETTE:** In Exhibit 11?
24 **BY MR. MENDEL:**
25 **Q.** I think that is right. Exhibit 11.

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1 **A.** I think it matches almost in every
2 point except one point.
3 **Q.** Okay. What is the one point that
4 doesn't match up?
5 **A.** Which is each level will include the
6 former sticker packs. This is --
7 **Q.** Where are you reading from?
8 **A.** C from Exhibit 11. Second page.
9 Bates 00031620.
10 **Q.** Okay. I'm there.
11 So, how did that change then? It
12 says here each, as you say each level will
13 include the former sticker packs.
14 **A.** Sticker packs, yes.
15 **Q.** So, how did that change?
16 **A.** It just doesn't appear in
17 Exhibit 16. Otherwise it is exactly the same.
18 **Q.** Got it. Otherwise it is the same.
19 **A.** Yes.
20 **Q.** And as we talked about earlier, the
21 spec was created and circulated, you drafted this
22 spec and it was circulated within Kik, correct?
23 **A.** Yes.
24 **Q.** Okay. Do you know why the concept
25 of the MVP was provided as -- or described in the

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<p>1 private placement memorandum but not included in 2 the white paper?</p> <p>3 MR. DEJARNETTE: I'm going to 4 caution you not to get into any --</p> <p>5 THE WITNESS: I would say no --</p> <p>6 MR. DEJARNETTE: Okay.</p> <p>7 BY MR. MENDEL:</p> <p>8 Q. Did you have any discussions with 9 anyone about that?</p> <p>10 A. About what exactly?</p> <p>11 Q. Why the MVP was included in the 12 private placement memorandum but not included in 13 the white paper?</p> <p>14 A. Not that I recall.</p> <p>15 Q. Were there subsequently changes to 16 the MVP from the version that you just read in 17 the private placement memorandum?</p> <p>18 A. From that point until what time 19 frame?</p> <p>20 Q. Until the, from the point of the 21 private placement memorandum through the token 22 distribution event, was there a change to the 23 MVP?</p> <p>24 A. The only thing that is, comes to 25 mind is that instead of five tiers we ended up</p> <p>169</p>	<p>1 master wallet within Kik or not. I'm not sure 2 about that from a technical perspective.</p> <p>3 If this is the case, then it did 4 create a Kik wallet. It is the Kik master 5 wallet, but I'm not certain about those technical 6 details.</p> <p>7 Q. Did the final MVP that was included 8 at the launch, at the token distribution event 9 provide all of the functionality that Kik 10 intended to provide through Kin?</p> <p>11 MR. DEJARNETTE: Objection.</p> <p>12 THE WITNESS: Can you please explain 13 what that means?</p> <p>14 BY MR. MENDEL:</p> <p>15 Q. Let me try to rephrase the question.</p> <p>16 A. Yes.</p> <p>17 Q. Did the MVP that was included at the 18 launch, did that represent all of the 19 functionality that Kik intended to provide for 20 Kin in Kik Messenger?</p> <p>21 A. It definitely included all of the 22 functionality that was scoped as part of the 23 minimum viable product.</p> <p>24 As a minimum viable product it is 25 not the full product.</p> <p>171</p>
<p>1 with anywhere between 10 and 15 different tiers. 2 This spec talks about five tiers 3 only. So, we expanded on that.</p> <p>4 Q. The ppm states, "A Kik user who owns 5 Kin will be able to create a wallet inside the 6 Kik app."</p> <p>7 Isn't it the case that under the MVP 8 as implemented, a Kik user who owned Kin was not 9 able to create a wallet inside a Kik application?</p> <p>10 A. Correct. That is the second thing, 11 yes. They can link a wallet.</p> <p>12 Q. And the wallet was linked outside 13 the application? I'm sorry, let me rephrase 14 that.</p> <p>15 The wallet that was linked to 16 resided outside the Kik application, correct?</p> <p>17 A. Correct. But also a master wallet 18 would be created within Kik.</p> <p>19 So, I don't know if that meets the 20 definition or not.</p> <p>21 Q. I'm talking about a wallet that was 22 created by a Kik user who owns Kin.</p> <p>23 A. The part that I'm not certain about 24 is that the moment you link your external wallet, 25 did that actually trigger the creation of the</p> <p>170</p>	<p>1 Q. So, there was additional 2 functionality that Kik had planned for Kik 3 Messenger and Kin for the future, following the 4 token distribution event, correct?</p> <p>5 A. Absolutely. That is IPL Version 2.</p> <p>6 Q. And was there functionality beyond 7 IPL Version 2 as well?</p> <p>8 A. We started discussing that, but then 9 I departed from Kik. So, yes.</p> <p>10 Q. And just so I'm clear, the IPL 11 Version 2 was already in progress at the time of 12 the token distribution event, correct?</p> <p>13 A. Correct.</p> <p>14 Q. And was there a time limit or a time 15 goal for the IPL Version 2 to be implemented?</p> <p>16 A. Yes.</p> <p>17 Q. What was that?</p> <p>18 A. From the moment the TD is concluded, 19 90 days from that point in time. 90, nine oh.</p> <p>20 Q. What was the additional 21 functionality that was planned?</p> <p>22 A. If I recall correctly, it is the 23 ability to earn and spend Kin within Kik.</p> <p>24 The second is an on-chain solution 25 because this was more off-chain.</p> <p>172</p>

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<p>1 I think there was also something 2 working with brands in providing those 3 experiences. So, starting to validate that as 4 well. 5 Q. At the time of the token 6 distribution event then there was no ability to 7 earn and spend Kin within Kik, correct? 8 A. Within the Kik Messenger, correct, 9 yes. 10 Q. And, when you mentioned an on-chain 11 solution, can you explain what you mean by that? 12 A. So, again, that part is blurry 13 again, because I'm not technical, but the way we 14 went live during the token distribution event was 15 with an off-chain solution. 16 What that actually means I don't 17 know exactly. But the intention was to go 18 on-chain. So, I think that is the third. 19 The fourth difference is also to 20 expand the reach of the IPL beyond 1,000 Kik 21 users and the token distribution event 22 participants to 9,000 additional Kik users. 23 Q. You hadn't identified those numbers, 24 though, at the time of the token distribution 25 event, had you, expanding to an additional 9,000</p> <p>173</p>	<p>1 MR. DEJARNETTE: Don't get into 2 those. 3 THE WITNESS: Yeah, I'm not going to 4 get into it. 5 BY MR. MENDEL: 6 Q. Okay. So, is your testimony then 7 that the IPL or the MVP was only for 1,000 Kik 8 users at the time of the token distribution 9 event? 10 A. No. 11 Q. Then, again where did you get 12 the 1,000 users from? 13 A. Where did I get the 1,000? 14 Q. I'm just trying to understand what 15 the source of the number of 1,000 was. 16 A. Through counsel. 17 Q. You testified earlier that you 18 thought that token distribution event occurred in 19 September of 2017? 20 A. Yes. 21 Q. And, do you recall the process that 22 took place for the token distribution event to 23 occur? Like, what were the steps that Kik 24 followed. Do you remember? 25 A. Not so much, no.</p> <p>175</p>
<p>1 Kik users? 2 A. Can you explain the question again? 3 Q. Well, sure. When you said that 4 there was additional functionality planned and 5 that functionality was reaching additional Kik 6 users, Kik Messenger users, do I have that 7 correct? 8 A. Yes. 9 Q. That objective wasn't identified 10 before the token distribution event, was it? 11 A. As far as I recall it was. 12 Q. It was. And you were able to 13 identify a number beyond 1,000 before the token 14 distribution event? 15 A. Can you define what identify means 16 to you? 17 Q. Well you? 18 A. We had millions of users, right? 19 Q. Right. Well you said to expand IPL 20 beyond 1,000 Kik users. 21 A. Yes. 22 Q. Where did you come up with the 1,000 23 from? 24 A. Through, you know, attorney/client 25 discussions with counsel.</p> <p>174</p>	<p>1 Q. Was there first a registration of 2 potential purchasers, do you remember that? 3 A. Yes, I do. 4 Q. Okay. And then a sale, a process by 5 which the Kin buyers paid money to Kik? Does 6 that make sense? 7 A. Yes. 8 Q. And then a distribution? 9 A. I think so, yes. 10 Q. Okay. 11 A. I also think there was a step where 12 we actually identified who those people are. I 13 don't know if it is a separate step or not, just 14 to make sure. 15 Q. Was that the know-your-customer 16 step? 17 A. Yes. 18 Q. Also known as KYC? 19 A. Yes. 20 Q. Okay. And through that KYC process, 21 Kik was able to ascertain where people, where the 22 buyers were from? 23 A. Yes. 24 Q. And there were some in from the 25 United States, correct?</p> <p>176</p>

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<p>1 A. I don't know who TD participants 2 were, so I don't know. 3 Q. Aside from the MVP or the IPL, do 4 you have an understanding of what a purchaser of 5 Kin could do with Kin at the time of the 6 September 2017 distribution? 7 A. So your question is a part of the 8 IPL or the MVP? 9 Q. Let me just state it again. 10 Do you have an understanding of what 11 a purchaser of Kin could do with Kin at the time 12 of the September 2017 distribution? 13 A. I'm sorry again, I don't fully 14 understand. It is two questions. 15 At the time of the distribution. 16 Q. Yes. 17 A. After they get the Kin or before? 18 Q. Once a person received the Kin that 19 they bought. 20 A. Uh-huh. 21 Q. It was distributed to them. What 22 could they do with it? 23 A. Oh, they could move it, give it to 24 someone else. They could integrate it into their 25 app.</p> <p>177</p>	<p>1 actual integration of Kin into these other 2 applications the partners may have accomplished, 3 correct? 4 MR. DEJARNETTE: Objection. 5 THE WITNESS: Yes. 6 BY MR. MENDEL: 7 Q. Did Kik employees design IPL-2? 8 A. Can you define what design is? 9 Q. Let me go back to a prior question 10 that I asked. 11 We referred to the partnership team. 12 The partnership team consisted of Kik employees, 13 correct? 14 A. Yes. 15 Q. Okay. You referred to the IPL 16 Version 2. 17 Was there a process by which the IPL 18 Version 2 was developed? 19 A. So, in terms of like writing the 20 code; is that the question? 21 Q. Everything about the IPL Version 2. 22 Whether it is designing the code or coming up 23 with the functionality. 24 Who created the IPL Version 2. 25 A. So, I think at the beginning I must</p> <p>179</p>
<p>1 Q. Were you aware of anything that they 2 could buy or sell? 3 A. No. But they could. I mean this is 4 a decentralized currency or a token. 5 Q. You weren't aware of any specific 6 items that they could buy using Kin, were you? 7 A. No. 8 Q. At the time of the distribution, 9 again in September of 2017, were you aware of any 10 developers of applications who had adopted Kin in 11 their applications? 12 A. So, I vaguely remember that the 13 partnership team was in the process of doing 14 that. 15 I don't know exactly if they 16 integrated Kin into their apps at that point in 17 time or not. 18 Q. The partnership team at Kik? 19 A. Yes. 20 Q. They were in the process of doing 21 what? Can you explain? 22 A. Discussing this with potential 23 partners and I don't know how far these partners 24 were in the process. 25 Q. Okay. So you are not aware of any</p> <p>178</p>	<p>1 have written the initial spec for IPL V2. 2 And, then I think the Tel Aviv 3 office started working on the IPL Version 2 and I 4 don't remember if it was before the TD or right 5 after the TD. And, yes. 6 Q. And it was Kik employees who 7 developed the IPL Version 2, correct? 8 A. Correct. 9 Q. Was it your expectation that after 10 the distribution took place in September of 2017 11 that Kik employees would continue to work on 12 additional functionality of Kin within Kik 13 Messenger? 14 A. My expectation is that they would be 15 doing that. But, they would not be the only ones 16 working on Kin at that point in time. 17 Q. Who else would be working inside Kik 18 Messenger for integrating Kin? 19 A. So, I think, and that is my point 20 around the brands. My expectation is that the 21 brands would also be involved in the earning and 22 spending of Kin within Kik. 23 And, through the chat bots some 24 brands had their own dev shops or development 25 work that was done outside Kik.</p> <p>180</p>

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<p>1 Some of them I think people think it 2 helped them. So, that is one key stakeholder. 3 And the second player is perhaps 4 additional apps or app owners would implement Kin 5 in their apps as well. Which part of it is 6 building the SDK itself, which I would expect the 7 Kik employees to build. 8 But, integrating that successfully 9 into these apps is probably work that would have 10 been conducted by these web app owners and their 11 companies. 12 Q. Was that functionality for within 13 Kik Messenger or outside of Kik Messenger by the 14 developers? 15 A. Outside. 16 Q. And the brands that was for 17 functionality within Kik Messenger, or outside of 18 Kik Messenger? 19 A. Inside Kik Messenger. 20 Q. But, those brands, those brands 21 hadn't developed functionality within Kik 22 Messenger before the token distribution event, 23 correct? 24 A. They had. 25 Q. Before the token distribution event?</p> <p>181</p>	<p>1 or answering a survey. 2 I think that was the idea behind 3 that. 4 Q. And that existed before the 5 distribution of Kin. That occurred at the time, 6 a Kin user could use one of these bots, chat 7 bots. Do I have that right? 8 A. Chat bot. Like a robot. Yes. 9 Q. At the time they received the Kin? 10 A. Okay, so, let me just differentiate 11 between two things. Chat bots existed within Kik 12 Messenger for quite a while. 13 Q. Yes. 14 A. Brands had them. This is nothing to 15 do with Kin. 16 Q. Okay. 17 A. After the TD, the plan was that we 18 will integrate some of the Kin use cases into 19 these brand chat bots. 20 The specific idea that we had, now 21 that I recall, was that for the first time a 22 brand can have a direct to consumer connection 23 and compensate a Kik user in return for gaining 24 some insight around that user base. 25 Q. Do you know what the Ontario</p> <p>183</p>
<p>1 A. Yes. 2 Q. What had they done? 3 A. They built chat bots. 4 Q. Inside of Kik Messenger? 5 A. Yes. 6 Q. Okay. And what, what could they do 7 with Kin? 8 A. I don't know. 9 Q. Are you aware of any, any way a 10 person could use Kin with the brands inside Kik 11 Messenger? 12 A. It is blurry to me. 13 I remember thinking about that as I 14 was writing the IPL V2 spec. But, I don't 15 remember the details. 16 Q. So, you are not aware of any 17 specific brands or chat bots that could be used 18 with Kin inside Kik Messenger before the 19 distribution? 20 A. So, I actually do think I do now 21 recall. 22 One of those, I don't remember which 23 brand it was, but, the idea was that a brand 24 would use Kin to compensate Kik users in return 25 to doing some research. Or answering questions</p> <p>182</p>	<p>1 Securities Commission is? 2 A. Yes. 3 Q. What is it? 4 A. The equivalent of the SEC in Canada. 5 Q. It is a regulator of securities? 6 A. I think so, yes. 7 Q. Were you familiar with efforts by 8 Kik to approach the OSC in 2017? 9 MR. DEJARNETTE: I'm going to 10 caution you not to get into communications 11 with counsel. 12 BY MR. MENDEL: 13 Q. Right. I'm not asking for your 14 communications with counsel. 15 I just want to know if you were 16 familiar with the effort by Kik to approach that? 17 A. Vaguely I remember, yes. 18 Q. How did you learn about it? 19 A. From Peter Heinke, the CFO. 20 Q. And do you know when this contact 21 occurred? 22 A. Prior to the TD. 23 MR. DEJARNETTE: Do you want that 24 back? 25 MR. MENDEL: No, that is okay.</p> <p>184</p>

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<p>1 BY MR. MENDEL: 2 Q. So, shifting gears a little bit. 3 Do you recall a summit in Tel Aviv 4 in October 2017 with Kik's leadership? 5 A. Yes. I remember two. 6 Q. Do you recall the specific days? 7 A. No. 8 Q. What was the purpose of the meeting, 9 of the summit? 10 A. Which of the two summits are you 11 referring to? There were two. 12 One was with the executive team and 13 the second was with extended leadership. 14 Q. What was the purpose of the summit 15 with the executive team? And where -- what was 16 the purpose of the summit with the executive 17 team? 18 A. As far as I remember is to move from 19 vision to strategy. And then also talk about how 20 we work together. 21 Q. What about the, what, where did the 22 summit for the executive team take place? 23 A. Tel Aviv, Israel. 24 Q. And what about the summit for the 25 leadership team?</p> <p style="text-align: center;">185</p>	<p>1 A. Yes. 2 Q. Can you explain that? 3 A. So, again as I said earlier on, 4 right until the successful TDE, the person who 5 led our crypto efforts was Erin Clift together 6 with Peter Heinke and Ted Livingston. 7 The moment that TDE was successfully 8 completed, then we needed to move from vision to 9 strategy in terms of what we actually need to 10 build. 11 And at that point in time it was 12 transitioned from Erin to me, me and Dave Simons 13 the SVP Engineering. 14 (Exhibit Number 17 15 marked for identification.) 16 BY MR. MENDEL: 17 Q. So, Mr. Ben-Ari, I am showing you 18 what has been marked Exhibit 17 identified by the 19 Bates Numbers Kik_00129301 on the first page. 20 And on the last page, Kik_00129326. 21 And it was also Investigative Exhibit 128. 22 At the top of the first page it says 23 TLV Summit Notes. TLV means what? 24 A. I assume Tel Aviv. 25 Q. Have you seen these TLV Summit Notes</p> <p style="text-align: center;">187</p>
<p>1 A. Also in Tel Aviv, Israel. 2 Q. And what was the purpose of the 3 extended leadership summit? 4 A. I think it is the same purpose. It 5 is moving from vision to strategy. What are the 6 milestones and the next steps that we need to 7 take as a company to realize the vision of Kin. 8 Q. Did you help plan for both summits? 9 A. No. 10 Q. Did you plan for either summit? 11 A. Yes. 12 Q. Which one? 13 A. The second one. 14 Q. That was the leadership, extended 15 leadership? 16 A. Yes. 17 Q. When did you start to plan for that? 18 A. Probably a week before the summit. 19 A week, two weeks. 20 Q. Was this around the time of a 21 transition of responsibility from Erin Clift to 22 you? 23 A. Transition of responsibility around 24 what. 25 Q. For Kin.</p> <p style="text-align: center;">186</p>	<p>1 before? 2 A. In my previous testimony. 3 Q. And on the first page their day is 4 listed October 17th, October 18th and 5 October 19th. Do you see those? 6 A. I do, yes. 7 Q. Were those the dates of the extended 8 leadership summit? 9 A. Yes, I think so. 10 Q. Did you attend? 11 A. I did parts of it. 12 Q. You got sick? 13 A. Yes. 14 Q. What happened? 15 A. I had pneumonia. 16 Q. But you planned for it before this 17 summit, correct? 18 A. I did, yes. 19 Q. Looking at these notes, does this 20 refresh your recollection of how long in advance 21 you planned the summit? 22 A. No. 23 Q. You still think it was about a week 24 before? 25 A. A week or two weeks, yes.</p> <p style="text-align: center;">188</p>

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<p>1 Q. Could have been longer, right?</p> <p>2 A. I don't think so, because we had the</p> <p>3 previous summit, the executive summit just before</p> <p>4 that.</p> <p>5 Q. I see.</p> <p>6 A. So, I would be surprised if that is</p> <p>7 the case.</p> <p>8 Q. So, do you have, which sections of</p> <p>9 the summit did you attend?</p> <p>10 A. I think the first day I attended.</p> <p>11 And, the second, I think the second, probably the</p> <p>12 second was the one that I did not attend fully.</p> <p>13 And I'm not sure about the third one.</p> <p>14 But, I remember that the physician</p> <p>15 came to the off-site itself and checked me and</p> <p>16 then I went to the hotel to rest. I slept for a</p> <p>17 few good hours.</p> <p>18 Q. Do you remember whether the</p> <p>19 physician came on the second day or the third</p> <p>20 day?</p> <p>21 A. I think it, he actually came on the</p> <p>22 first day. But, I don't, I don't recall exactly</p> <p>23 either the first or the second day.</p> <p>24 Q. What is Exhibit 17?</p> <p>25 A. Exhibit 17 looks like the summary</p> <p style="text-align: center;">189</p>	<p>1 people. So, Ted Livingston, myself, Hayeon, Dany</p> <p>2 Fishel, Tanner Philips, Tal Cohen, Eileen.</p> <p>3 Q. Eileen?</p> <p>4 A. Yes.</p> <p>5 Q. Do you know her last name?</p> <p>6 A. No.</p> <p>7 Q. Okay.</p> <p>8 A. Natasha.</p> <p>9 Q. Do you know her last name?</p> <p>10 A. Natasha I think Shine-Zirkel.</p> <p>11 Q. Okay.</p> <p>12 A. And Gadi, and Yohay, Yohay Barsky,</p> <p>13 and Gadi Srebnik, S-R-E-B-N-I-K.</p> <p>14 And I also think Peter Heinke</p> <p>15 attended this summit as well. And Dave Simons,</p> <p>16 as far as I can recall.</p> <p>17 Q. Yohay Barsky, that is Y-O-H-A-Y,</p> <p>18 B-A-R-S-K-Y?</p> <p>19 A. Yes.</p> <p>20 Q. Were there any other people</p> <p>21 attending the extended leadership summit?</p> <p>22 A. Yes, I think other people from</p> <p>23 Cointree, I think Leonid, I don't remember his</p> <p>24 last name. He is listed in the document you just</p> <p>25 opened.</p> <p style="text-align: center;">191</p>
<p>1 notes of the TLV summits.</p> <p>2 Q. These are notes that were taken</p> <p>3 after the summit occurred or during?</p> <p>4 A. As I said in my previous, I don't</p> <p>5 know. I don't know who took these. Perhaps</p> <p>6 Hayeon, I don't -- I don't know when they were</p> <p>7 taken and I don't know who wrote them for</p> <p>8 certain.</p> <p>9 Q. I think, in your prior testimony,</p> <p>10 you said that Hayeon Kim probably wrote the</p> <p>11 notes. Is that still with --</p> <p>12 A. That is what I'm saying, yes.</p> <p>13 Q. Is that still your best assumption</p> <p>14 about who wrote these?</p> <p>15 A. Yes.</p> <p>16 Q. And why would Hayeon Kim have been</p> <p>17 the one who wrote these notes?</p> <p>18 A. That is what she used to do.</p> <p>19 Q. Who was at the summit? Let me</p> <p>20 clarify. Who was at the summit of extended</p> <p>21 leadership from October 17th through the 19th?</p> <p>22 Who attended?</p> <p>23 A. Can I skim through the document?</p> <p>24 Q. Yes.</p> <p>25 A. Maybe I could start naming the</p> <p style="text-align: center;">190</p>	<p>1 Q. Beder?</p> <p>2 A. Yes, and I also think Uriel Peled</p> <p>3 from Cointree as well.</p> <p>4 Q. What about, that is two from</p> <p>5 Cointree, Leonid and Uriel?</p> <p>6 A. So, it is Leonid, Uriel, Tal Cohen,</p> <p>7 which I said earlier on, from Cointree.</p> <p>8 Q. Okay.</p> <p>9 A. And perhaps also Naama Hadad, that</p> <p>10 is also there.</p> <p>11 Q. Who?</p> <p>12 A. Naama Hadad.</p> <p>13 Q. From Cointree.</p> <p>14 A. Yes.</p> <p>15 Q. And anybody else attend the extended</p> <p>16 leadership summit?</p> <p>17 A. I'm trying to recall. I don't think</p> <p>18 so.</p> <p>19 Q. So, is it fair to say everyone who</p> <p>20 attended was either from Kik or Cointree?</p> <p>21 A. Yes.</p> <p>22 Q. There was only one session of the</p> <p>23 summit operating at any one time, right? There</p> <p>24 were no parallel sessions?</p> <p>25 A. Correct.</p> <p style="text-align: center;">192</p>

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<p>1 Q. And, is it your understanding that 2 the notes in, compiled in Exhibit 17 reflect 3 statements of people who attended the summit? 4 A. I don't know what the nature of the, 5 maybe it is a edited version, I don't know. 6 Q. Well, what would you have expected 7 Hayeon Kim to put together? 8 I mean she wouldn't make things up, 9 would she? 10 A. As I said earlier, and I'm not sure 11 it is Hayeon who actually wrote this document. 12 And even if she did, she may have 13 written things that in her own language or from 14 her own interpretation. I don't know. 15 I didn't write this document. 16 Q. Do you -- was this document shared 17 with the executive team? 18 A. Could be. 19 Q. Are you aware of anyone making edits 20 to this document? 21 A. When exactly? What is the time 22 frame around making edits? 23 Q. At any time. Were you aware of 24 people making, were you aware of people at Kik 25 making edits to this document?</p> <p>193</p>	<p>1 In the middle of the page it says 2 Strategy and Agenda Setting, Eran. 3 Do you have a memory of attending 4 the Strategy and Agenda Setting part of the 5 summit? 6 A. I think so, yes. 7 Q. Okay. And then below that it says, 8 Deck: TLV Summit -- Kin From Vision to 9 Execution. That was the point of the summit? 10 A. Yes. 11 Q. Going down these bullets, do these 12 look like, do these bullets seem to reflect what 13 you included in your presentation at this point? 14 A. I am not sure because this is the 15 outputs from the exec off-site and I don't 16 remember exactly what, that is what the first 17 bullet point says. 18 I don't, I don't remember what I 19 presented at that session. 20 Q. Under, there is a bullet, a 21 subbullet that says Moving to B2B Focus and then 22 under that there is a square bullet, Kik is 23 Launch Pad For Kin. Kin is Our Future. Do you 24 see that? 25 A. Yes.</p> <p>195</p>
<p>1 A. Not that I'm aware of, no. 2 Q. Did you ever form a view that 3 anything in Exhibit 17 was inaccurate? 4 A. Inaccurate, to what? To what was 5 discussed in the summit? 6 Q. Yes. Do you think -- 7 Did you ever form a view that 8 anything in Exhibit 17 was incorrectly 9 summarizing what somebody said at the summit? 10 A. I don't recall the summits to its 11 greatest details and I also did not participate 12 in some of the sessions. 13 So, it is difficult for me to say if 14 it is reflective exactly of what was discussed in 15 the summit or not. 16 Q. Well, that wasn't really -- I mean I 17 asked you if you ever formed a view, I understand 18 your participation was limited. 19 But I'm asking did you ever form a 20 view, reading through these notes, that anything 21 in here was inaccurate? 22 A. No. 23 Q. Looking on Page 2 of the summit 24 notes, identified by the Bates Number 25 Kik_00129302.</p> <p>194</p>	<p>1 Q. Was that a main theme at the summit? 2 A. A theme, the focus of the summit was 3 definitely on Kin, yes. 4 Q. The fact that, or the notion that 5 Kin is our future, was that, had that been a 6 sentiment at Kik even before the token 7 distribution event? 8 A. I don't think I can testify to what 9 was the, what went on in the minds of everyone at 10 Kik. 11 Q. Did you think it was? Before the 12 token distribution event, did you think Kin was 13 Kik's future? 14 A. I think that this was a path that if 15 the TD will be successful then Kin has to become 16 a central part of Kik's future. 17 Q. Going down it says, "Change in Site 18 Focuses: Each site can improve odds of Kin 19 success integrating Kin inside and outside Kik." 20 And then it lists different sites: 21 Tel Aviv, digital apps, outside Kik; Toronto, web 22 app, launch pad, inside Kik; Waterloo Marketplace 23 inside Kik, also developer relations led by Dany? 24 Was this a reflection of a dividing 25 up of responsibilities within the company for</p> <p>196</p>

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<p>1 Kin?</p> <p>2 A. Yes, it appears so, yes.</p> <p>3 Q. And this is for going forward</p> <p>4 following the summit, correct?</p> <p>5 A. I think it was the basis for</p> <p>6 discussion. But, yes.</p> <p>7 Q. There is also the bullet at the very</p> <p>8 bottom of the Page 2, IPL History and Future.</p> <p>9 This is another reference to the</p> <p>10 MVP, right?</p> <p>11 A. Yes.</p> <p>12 Q. And at the top of Page 3 it says,</p> <p>13 the first bullet, Originally an Answer For</p> <p>14 Compliance Needs. That was true, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And then the second bullet, Shifted</p> <p>17 Into Focusing on Our Consumer Needs. Right?</p> <p>18 A. Yes.</p> <p>19 Q. And then third, Now It Needs to</p> <p>20 Become Product That Can Be Integrated Outside of</p> <p>21 Kik. Right?</p> <p>22 A. Yes.</p> <p>23 Q. Those were all future-looking plans</p> <p>24 for Kik?</p> <p>25 A. Not necessarily. I mean, I think</p> <p style="text-align: center;">197</p>	<p>1 Plus KRE Launch Requirements Plus Compliance</p> <p>2 Stress Tests, Eran, Tal, Tanner.</p> <p>3 Did you attend Session 7?</p> <p>4 A. I don't remember if I attended</p> <p>5 Session 7, no.</p> <p>6 Q. Well, you were responsible for IPL</p> <p>7 Version 2, right?</p> <p>8 A. Yes.</p> <p>9 Q. Is it likely that you attended?</p> <p>10 A. I think, again this is, as I said</p> <p>11 previously, a year ago. This is the session that</p> <p>12 I don't remember attending.</p> <p>13 Q. Do you know why your name would be</p> <p>14 down if you didn't attend?</p> <p>15 A. Because we were supposed to run the</p> <p>16 session.</p> <p>17 Q. You and Tal and Tanner?</p> <p>18 A. Yes.</p> <p>19 Q. And then on the next page, 314, the</p> <p>20 second clear bullet down, there is Discussion</p> <p>21 Around Who We Are Building For -- Kik IPL Users</p> <p>22 Or TD Participants.</p> <p>23 Do you recall any discussion about</p> <p>24 that?</p> <p>25 A. No.</p> <p style="text-align: center;">199</p>
<p>1 again this is the, if you look at the bullet</p> <p>2 point, it is the IPL History and Future. Right?</p> <p>3 Q. I see.</p> <p>4 A. So, it is not necessarily only the</p> <p>5 future. It is also a way to capture and</p> <p>6 summarize the past.</p> <p>7 Originally, you know, compliance,</p> <p>8 then it shifted into focusing on consumer needs.</p> <p>9 And now we need to look beyond Kik</p> <p>10 and integrate it outside, in other apps as well.</p> <p>11 Q. And that is as of October 2017,</p> <p>12 right?</p> <p>13 A. Yes.</p> <p>14 Q. I'm now on the page identified by</p> <p>15 Kik_00129310.</p> <p>16 Under Section 6, Transaction Layer</p> <p>17 Proposed and Applied Compliance, Tal.</p> <p>18 Did you attend this session? Do you</p> <p>19 remember?</p> <p>20 A. I don't remember if I attended the</p> <p>21 session.</p> <p>22 Q. Going ahead to the page ending</p> <p>23 in 313 on the lower right corner.</p> <p>24 There is a, above the redacted box,</p> <p>25 there is something that says Session 7: IPL V2</p> <p style="text-align: center;">198</p>	<p>1 Q. It is possible that you were part of</p> <p>2 that discussion, you just can't remember, right?</p> <p>3 A. It is possible, yes.</p> <p>4 Q. And then there is the bullet,</p> <p>5 "Realistically TD participants are not likely to</p> <p>6 become Kik users. They more than likely did buy</p> <p>7 it as an investment which isn't what we want for</p> <p>8 compliance, and being a utility, but it is the</p> <p>9 truth."</p> <p>10 Did you make that statement?</p> <p>11 A. I don't recall attending the</p> <p>12 session. So, I, I can't say that I made that</p> <p>13 statement.</p> <p>14 Q. Is it possible that you did?</p> <p>15 A. I don't think so. That is not what</p> <p>16 I felt at that time or thought at that time. So,</p> <p>17 that would be surprising.</p> <p>18 Q. Do you remember hearing that</p> <p>19 sentiment from anybody else?</p> <p>20 A. Yes. Cointree. It is something</p> <p>21 that reflected their knowledge of the crypto</p> <p>22 space. And one of my concerns around working</p> <p>23 with them and with CoinFund.</p> <p>24 So, I wouldn't be surprised if</p> <p>25 someone from Cointree made that remark.</p> <p style="text-align: center;">200</p>

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<p>1 Q. Is it possible that somebody from 2 Kik said it? 3 A. I don't know. 4 Q. Had you ever heard anyone from Kik 5 state that realistically TDE participants are not 6 likely to become Kik users? 7 A. I don't recall hearing that. 8 Q. Did you have a conversation with 9 anyone at Kik around this time in October of 2017 10 where they, where some Kik employees said likely 11 TDE participants bought Kin as an investment? 12 A. The only thing I remember is that 13 some of the people in Cointree said that. 14 Q. I understand that. And my question 15 is a little different. 16 You don't recall any conversations 17 with anyone at Kik saying that? 18 A. I don't recall that, no. 19 Q. Do you have any reason to think this 20 statement wasn't made? 21 A. That it wasn't made? 22 Q. You don't know one way or the other, 23 right? 24 A. No. 25 Q. Did you disagree with it?</p> <p>201</p>	<p>1 summary. 2 So, I don't know if anyone actually 3 said this. I don't know who wrote this 4 document. So, I don't know. 5 BY MR. MENDEL: 6 Q. But, could that sentiment be 7 attributed to anyone besides a Kik employee or 8 to, a person from Cointree -- 9 MR. DEJARNETTE: Objection. 10 BY MR. MENDEL: 11 Q. -- if those were the only people who 12 were at the summit? 13 MR. DEJARNETTE: Same objection. 14 THE WITNESS: I would say if it 15 would only be someone who may have said that, 16 I would probably say it is someone from 17 Cointree. 18 BY MR. MENDEL: 19 Q. It couldn't be someone other than 20 from Cointree or Kik, correct? 21 A. Everything is possible, yes. It 22 could not be anyone other than people that work 23 for Kik or for Cointree. 24 Q. Okay. You can put that one down. 25 A. Okay.</p> <p>203</p>
<p>1 A. Yes. 2 Q. What part did you disagree with? 3 A. I didn't know anything about the TD 4 participants, so how did I know that they would 5 or would not become likely Kik users. 6 Q. No, I meant like did you 7 affirmatively disagree with the truth of this 8 statement? Or did you just not have a view? 9 A. Well, what I'm saying is that I 10 didn't have enough information to make that 11 statement. Let alone to agree with it or 12 disagree with it. 13 I knew only about Kik users. 14 Q. Could this statement, "Realistically 15 TDE participants are not likely to become Kik 16 users. They more than likely did buy it as an 17 investment, which isn't what we want for 18 compliance and being utility. But it is the 19 truth." 20 Could that be attributed to anyone 21 other than a Kik employee or to Cointree? 22 MR. DEJARNETTE: Objection. 23 THE WITNESS: Again, I don't know if 24 this actually captures, I don't think this is 25 a transcript of the session, sorry. It is a</p> <p>202</p>	<p>1 Q. You left Kik in December of 2017? 2 A. Yes. 3 Q. Can you just run through how you 4 left the company? 5 A. Well, I -- 6 MR. DEJARNETTE: Objection. 7 BY MR. MENDEL: 8 Q. Fair enough. Can you describe how 9 you learned you were leaving the company? 10 A. I was informed by Ted Livingston. 11 Q. When? 12 A. December 2017. 13 Q. How did he inform you? 14 A. He came to meet me at the Toronto 15 office. He asked me to come up to the street. 16 He handed over a note that he printed out. And 17 that is it. 18 Q. Did he say anything to you or did he 19 just hand you the note? 20 A. He was sorry about the situation. 21 So. That is what I felt from it. 22 Q. What was in the note? 23 A. As far as I recall it is not working 24 out. He wants to depart in the best terms 25 possible for both parties.</p> <p>204</p>

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<p>1 But he has made his decision. 2 Q. And, after that meeting with 3 Mr. Livingston, did you go back to your office? 4 A. Yes. 5 Q. For how long? 6 A. So, at the time the newly appointed 7 VP Product in Tel Aviv came to visit me in 8 Toronto for that week. 9 So I went back to the office, and 10 then basically I completed the day as if nothing 11 happened to help that VP Product get on board it 12 and then I went home. 13 Q. That was in Toronto? 14 A. Yes. 15 Q. Had you moved to Toronto? 16 A. Yes. By that time, yes. 17 Q. When did that move take place? 18 A. August 2017, August 23rd or 24th. 19 Q. So you spent one more day in the 20 office and then that was it? 21 A. Yes. 22 Q. And then did you have communication 23 with Kik after you left the company? 24 A. Going through an employment lawyer. 25 Q. When did you consult an employment</p> <p style="text-align: center;">205</p>	<p>1 between me and Kik interactive. 2 Q. Looking on the last page, is that 3 your signature under Eran Ben-Ari? 4 A. Yes. 5 Q. And what about witness. Do you know 6 who that is? 7 A. Yes. 8 Q. Who is that? 9 A. My wife. 10 Q. Okay. And on page ending 232 that 11 is your signature again on April 16th? 12 A. Yes. 13 Q. And is that Ted Livingston's 14 signature? 15 A. Yes. 16 Q. And this was your severance 17 agreement with Kik? 18 A. Yes. 19 Q. Negotiated by your employment 20 lawyer? 21 A. Yes. 22 Q. Okay. Has, in your opinion, has Kik 23 complied with the settlement agreement? 24 A. Yes. 25 Q. Is it still in effect?</p> <p style="text-align: center;">207</p>
<p>1 lawyer? 2 A. In the next couple of weeks. 3 Q. Did you, had you consulted one 4 before you moved to Canada with Kik? 5 A. Did I? 6 Q. Yes. I, did you, before you, before 7 your departure from Kik, had you retained an 8 employment lawyer? 9 A. No. 10 Q. Just after you got the news of your 11 departure? 12 A. Yes. 13 (Exhibit Number 18 14 marked for identification.) 15 BY MR. MENDEL: 16 Q. I have handed you what has been 17 marked Exhibit 18 reflected by Kik_00147228 on 18 the first page and on the last page Kik_00147235. 19 And the first page states Minutes of 20 Settlement Between Eran Ben-Ari, the employee, 21 and Kik Interactive, Inc. 22 Do you recognize Exhibit 18? 23 A. Yes. 24 Q. What is this? 25 A. It is the minutes of settlement</p> <p style="text-align: center;">206</p>	<p>1 A. No. 2 Q. It is no longer -- 3 A. Can you explain what does in effect 4 mean. 5 Q. Are the terms of the agreement still 6 in effect? 7 MR. DEJARNETTE: Objection. 8 THE WITNESS: I am not familiar with 9 the legal term of in effect. 10 BY MR. MENDEL: 11 Q. Okay. 12 A. Did they pay out everything they 13 were supposed to pay, yes. Have they finished 14 paying as well? Yes. That is what I said. 15 Q. Okay. On Page 1, I'm just going to 16 go through a few of the terms. 17 It says the, on Page 1 ending in 228 18 on the last bullet, "The employee will receive 19 payments from January 15th, 2018 to October 15th, 20 2018, inclusive at a rate of \$13,269.23." 21 Is that Canadian dollars or U.S. 22 dollars? 23 A. I think that is Canadian dollars. 24 Q. And, so that provides for payments 25 through October 15th of last year. Right?</p> <p style="text-align: center;">208</p>

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<p>1 A. Yes.</p> <p>2 Q. And you gave testimony here with the</p> <p>3 SEC in October 23rd, right? Just about a week</p> <p>4 later?</p> <p>5 A. Yes.</p> <p>6 Q. Had they paid you, had Kik paid you</p> <p>7 all of the money before your testimony last year?</p> <p>8 A. Yes.</p> <p>9 Q. Did they give you any additional</p> <p>10 salary payments after October 15th, 2018?</p> <p>11 A. No.</p> <p>12 Q. And looking at Page 2, on the next</p> <p>13 page, ending in 229. It says, and the bullet at</p> <p>14 the bottom of the page, "Kik will pay the cost of</p> <p>15 Ernst & Young to prepare and file the employee's</p> <p>16 income tax returns for the employee in Israel for</p> <p>17 the 2017 and 2018 years and to obtain Canadian</p> <p>18 taxation pre-ruling stating that the employee</p> <p>19 will not be subject to double taxation in</p> <p>20 Canada."</p> <p>21 Did Kik do those things?</p> <p>22 A. Yes.</p> <p>23 Q. Was this a benefit that Kik still</p> <p>24 had to comply with at the time of your testimony</p> <p>25 last year in October?</p> <p>209</p>	<p>1 A. Yes.</p> <p>2 Q. Had that been done by the time of</p> <p>3 your testimony last year?</p> <p>4 A. I need to check; I don't remember.</p> <p>5 Q. Okay. What about obtaining a</p> <p>6 Canadian taxation pre-ruling.</p> <p>7 Had that been done yet by the time</p> <p>8 of your testimony last year?</p> <p>9 A. The pre-ruling I think it was done</p> <p>10 prior to that, yes.</p> <p>11 Q. Next page, Page 230.</p> <p>12 A. Yes.</p> <p>13 Q. First bullet, "Kik will continue to</p> <p>14 pay KPMG through December 31st, 2018 for</p> <p>15 assistance provided to assist the employee to</p> <p>16 obtain Canadian residency."</p> <p>17 Have you obtained Canadian</p> <p>18 residency?</p> <p>19 A. Yes.</p> <p>20 Q. And when was that?</p> <p>21 A. I don't remember the date.</p> <p>22 Q. Was it in 2018 or after?</p> <p>23 A. I don't remember.</p> <p>24 Q. Did it comply with this term?</p> <p>25 A. Yes.</p> <p>211</p>
<p>1 A. I think so.</p> <p>2 MR. DEJARNETTE: Objection.</p> <p>3 THE WITNESS: I think so, yes.</p> <p>4 BY MR. MENDEL:</p> <p>5 Q. Because by the time of your</p> <p>6 testimony last year in October of 2018, you</p> <p>7 hadn't filed your tax return for 2018. Correct?</p> <p>8 A. Correct.</p> <p>9 Q. So, Kik was still going to pay to</p> <p>10 have that done? Correct?</p> <p>11 A. Correct.</p> <p>12 Q. And what about obtaining a Canadian</p> <p>13 taxation pre-ruling stating that the employee</p> <p>14 would not be subject to double taxation in</p> <p>15 Canada.</p> <p>16 Is that something that Kik still</p> <p>17 owed you? I'm sorry?</p> <p>18 A. Can I just note something. I didn't</p> <p>19 live in Israel in 2018. That is why I didn't</p> <p>20 actually have to submit an income tax in Israel</p> <p>21 for the year of 2018.</p> <p>22 Q. Okay. So, you didn't pay Israel</p> <p>23 income taxes in 2018?</p> <p>24 A. Yes.</p> <p>25 Q. But you did have to pay for 2017?</p> <p>210</p>	<p>1 Q. Are there any other agreements</p> <p>2 between you and Kik following your departure?</p> <p>3 A. No.</p> <p>4 Q. Are you being compensated for your</p> <p>5 time today?</p> <p>6 A. Just reasonable, you know, air fare</p> <p>7 and hotel, and having a meal or something.</p> <p>8 And for the days that I am not at</p> <p>9 work.</p> <p>10 Q. Are you getting --</p> <p>11 A. I have to take days off.</p> <p>12 Q. Are you getting a per diem for the</p> <p>13 days that you have to take off from work?</p> <p>14 A. Yes.</p> <p>15 Q. How much are you receiving?</p> <p>16 A. I don't remember how much I asked</p> <p>17 last time, but basically I took my salary and</p> <p>18 divided by the number of days that I work in a</p> <p>19 year and the number of days that I'm here is</p> <p>20 multiplied by that rate.</p> <p>21 Q. Is that like just an informal</p> <p>22 agreement or is it on paper?</p> <p>23 A. Through e-mail.</p> <p>24 Q. Have you paid any legal bills</p> <p>25 related to the SEC's investigation or this</p> <p>212</p>

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1 lawsuit?
 2 A. No.
 3 Q. Do you have an understanding who is
 4 covering those bills?
 5 A. Yes.
 6 Q. Who?
 7 A. Kik.
 8 Q. And you haven't paid any out of
 9 pocket costs like for your travel to D.C. or
 10 anything?
 11 A. I have.
 12 Q. Unreimbursed or is Kik covering
 13 that?
 14 A. Oh, Kik hopefully will reimburse,
 15 yes.
 16 Q. What professionally have you been
 17 doing after Kik?
 18 A. [REDACTED]
 19 [REDACTED]
 20 [REDACTED]
 21 Q. And you are still there?
 22 A. Yes.
 23 Q. And we talked about this at the
 24 beginning. You are living in the Toronto area
 25 now?

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1 A. Yes.
 2 MR. MENDEL: Okay. Can we go off
 3 the record.
 4 THE VIDEOGRAPHER: The time is
 5 2:40 p.m. and we are going off the record.
 6 (Recess taken -- 2:40 p.m.)
 7 (After recess -- 2:52 p.m.)
 8 THE VIDEOGRAPHER: The time is
 9 2:52 p.m. and we are back on the record.
 10 BY MR. MENDEL:
 11 Q. I just want to fill in some of the
 12 details about what we just talked about in terms
 13 of your compensation for testimony.
 14 So, I think you said that basically
 15 it is your salary divided by 365 is like your
 16 daily rate; is that right?
 17 How is that, you are deciding, your
 18 compensation rate for testimony?
 19 A. Yes, I took the annual salary that I
 20 have, I divided it by the days that I work and
 21 then multiplied by the number of days that I have
 22 to come here and testify.
 23 Q. What is your daily rate then?
 24 A. I don't remember. I, last time we
 25 did it was like a year ago when I asked for the

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1 reimbursement of that.
 2 Q. So, you got, it was the same deal a
 3 year ago for your investigative testimony?
 4 A. Yes.
 5 Q. What was the rate that they came up
 6 with a year ago?
 7 A. So, I don't remember that. That is
 8 the part I don't remember.
 9 Q. What is your salary now?
 10 A. [REDACTED]
 11 Q. Canadian?
 12 A. Yes.
 13 Q. And how many days a year do you
 14 work?
 15 A. How many days of the year did I
 16 work?
 17 Q. Yes, what would you divide that by
 18 to arrive at your daily rate?
 19 A. [REDACTED]
 20 variable, and that would divide that by I think
 21 22.5 days per month, times 12.
 22 Q. So, you work about 270 days a year;
 23 is that right, roughly, correct?
 24 A. Yes.
 25 Q. So, if then your approach, your

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1 [REDACTED]
 2 270. Do I have that right?
 3 A. Yes.
 4 Q. [REDACTED]
 5 Canadian dollars for providing testimony?
 6 A. Yes, I don't remember if I divided
 7 [REDACTED]
 8 variable.
 9 Q. I see.
 10 A. But, more or less that was the
 11 calculation, yes.
 12 Q. [REDACTED]
 13 [REDACTED]
 14 A. Yes.
 15 Q. [REDACTED]
 16 right?
 17 A. Yes.
 18 Q. Okay. And you had a similar deal
 19 when you provided investigative testimony, right,
 20 last year?
 21 A. Yes.
 22 Q. And that would apply to your days of
 23 preparation time for your testimony, correct?
 24 A. It is days of work that I have to be
 25 absent from work. So, in --

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1 Q. Does work still pay you or do you
2 take vacation days?
3 A. I have to take vacation days.
4 Q. What did you do to prepare for
5 today's testimony?
6 A. I met with my legal counsels.
7 Q. When?
8 A. Yesterday.
9 Q. Did you, for how long did you meet
10 yesterday?
11 A. From 9:00 to 5:00, I think.
12 Q. And you looked at documents?
13 A. Yes.
14 Q. About how many documents did you
15 review?
16 A. Around 60.
17 Q. Did you do anything to prepare for
18 your deposition today before yesterday?
19 A. Yes.
20 Q. What did you do?
21 A. I read through the transcript of my
22 testimony a year ago.
23 Q. Anything else?
24 A. Meditated.
25 Q. How long did you spend reviewing

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1 your transcript?
2 A. Probably a couple of hours. Two,
3 three hours.
4 Q. And, you traveled, too, right?
5 A. Yes.
6 Q. And you traveled on Sunday?
7 A. Yes, Sunday night.
8 Q. And so is your compensation applying
9 to your time reading the transcript and your time
10 travelling?
11 A. No.
12 Q. No. Okay. Just prep time yesterday
13 and your deposition today?
14 A. Yes.
15 Q. Okay. Is it your testimony -- again
16 a detail about the compensation that you are
17 getting for providing deposition testimony today.
18 Is that compensation coming from Kik
19 Interactive, Inc.?
20 MR. DEJARNETTE: Objection.
21 THE WITNESS: I don't know. I
22 haven't --
23 BY MR. MENDEL:
24 Q. Well, who is going to pay, who is
25 going to write you the check?

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1 A. I think Kik, yes.
2 Q. And did Kik pay you last year? Did
3 the money come from Kik last year when you
4 provided investigative testimony?
5 A. Yes.
6 Q. Do you remember how, in addition to
7 the day of testimony you provided last year, do
8 you remember how long it took you to prepare for
9 last year's testimony?
10 A. Yes, we had a day of preparation
11 before that.
12 Q. Anything else?
13 A. I read through many documents as
14 preparation as well.
15 Q. And, what was your salary last year
16 during October of 2018?
17 A. [REDACTED]
18 [REDACTED]
19 Q. Okay. So, applying the methodology
20 we just went through to last year because it
21 would be roughly the same amount of compensation,
22 correct?
23 A. Correct.
24 Q. A day of testimony plus a day of
25 prep beforehand?

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1 A. Yes.
2 Q. Great. I have no further questions
3 today.
4 A. Okay, thank you.
5 MR. MENDEL: Thank you.
6 MR. DEJARNETTE: We have no further
7 questions, either, or we have no questions,
8 either.
9 THE VIDEOGRAPHER: Okay. The time
10 is 2:58 p.m. November 5th, 2019. Going off
11 the record completing the videotaped
12 deposition.
13 (Whereupon, signature not having been
14 waived, the deposition concluded at 2:58 p.m.)
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<p>1 CERTIFICATE OF COURT REPORTER 2 UNITED STATES OF AMERICA) 3 DISTRICT OF COLUMBIA) 4 I, LORI J. GOODIN, RPR, CLR, CRR, the 5 reporter before whom the foregoing deposition was 6 taken, do hereby certify that the witness whose 7 testimony appears in the foregoing deposition was 8 sworn by me; that the testimony of said witness 9 was taken by me in machine shorthand and 10 thereafter transcribed by computer-aided 11 transcription; that said deposition is a true 12 record of the testimony given by said witness; 13 that I am neither counsel for, related to, nor 14 employed by any of the parties to the action in 15 which this deposition was taken; and, further, 16 that I am not a relative or employee of any 17 attorney or counsel employed by the parties 18 hereto, or financially or otherwise interested 19 in the outcome of this action. 20 21 22 LORI J. GOODIN, RPR, CLR, CRR, RSA 23 Notary Public in and for the 24 District of Columbia 25 My Commission expires: May 14, 2021</p> <p style="text-align: center;">221</p>	<p>1 ERRATA SHEET 2 Deposition of: ERAN BEN-ARI Date taken: NOVEMBER 5, 2019 3 Case: SEC vs. KIK INTERACTIVE, INC. PAGE LINE 4 CHANGE: _____ REASON: _____ 5 6 CHANGE: _____ REASON: _____ 7 CHANGE: _____ REASON: _____ 8 9 CHANGE: _____ REASON: _____ 10 CHANGE: _____ REASON: _____ 11 12 CHANGE: _____ REASON: _____ 13 CHANGE: _____ REASON: _____ 14 15 CHANGE: _____ REASON: _____ 16 CHANGE: _____ REASON: _____ 17 18 CHANGE: _____ REASON: _____ 19 CHANGE: _____ REASON: _____ 20 21 CHANGE: _____ REASON: _____ 22 CHANGE: _____ REASON: _____ 23 24 Signed _____ 25 Dated _____</p> <p style="text-align: center;">223</p>
<p>1 DEPOSITION ERRATA SHEET 2 Case Caption: U.S. Securities and Exchange 3 Commission vs. Kik Interactive, Inc. 4 5 6 7 DECLARATION UNDER PENALTY OF PERJURY 8 9 I declare under penalty of perjury 10 that I have read the entire transcript of 11 my Deposition taken in the captioned matter 12 or the same has been read to me, and 13 the same is true and accurate, save and 14 except for changes and/or corrections, if 15 any, as indicated by me on the DEPOSITION 16 ERRATA SHEET hereof, with the understanding 17 that I offer these changes as if still under 18 oath. 19 Signed on the _____ day of 20 _____, 20____. 21 22 _____ 23 Eran Ben-Ari 24 25</p> <p style="text-align: center;">222</p>	<p>1 ERRATA SHEET 2 Deposition of: ERAN BEN-ARI Date taken: NOVEMBER 5, 2019 3 (Errata Page 2) PAGE LINE 4 CHANGE: _____ REASON: _____ 5 6 CHANGE: _____ REASON: _____ 7 CHANGE: _____ REASON: _____ 8 9 CHANGE: _____ REASON: _____ 10 CHANGE: _____ REASON: _____ 11 12 CHANGE: _____ REASON: _____ 13 CHANGE: _____ REASON: _____ 14 15 CHANGE: _____ REASON: _____ 16 CHANGE: _____ REASON: _____ 17 18 CHANGE: _____ REASON: _____ 19 CHANGE: _____ REASON: _____ 20 21 CHANGE: _____ REASON: _____ 22 CHANGE: _____ REASON: _____ 23 24 Signed _____ 25 Dated _____</p> <p style="text-align: center;">224</p>